

IN THE ALABAMA COURT OF THE JUDICIARY

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



THE JUDICIAL INQUIRY COMMISSION'S

MOTION TO ALTER THE FINAL JUDGMENT AS TO COSTS

Comes now the Judicial Inquiry Commission ("Commission") and moves this Court to alter its Final Judgment as to costs.

1. On May 11, 2018, this Court entered a judgment against Judge Kelly finding that the Commission proved by clear and convincing evidence that Judge Kelly was guilty of all six charges alleged in the Second Amended Complaint. See Final Judgment, pg. 10.
2. Among other pronouncements, this Court ordered all costs (except the publication costs of a public reprimand) taxed as paid. Id., at 17.
3. Generally, in civil cases, "costs shall be allowed as of course to the prevailing party unless the Court otherwise directs." Rule 54(d), Ala. R. Civ. P.
4. In this case, the Commission will be greatly prejudiced if it is required to pay its own costs related to this matter.
5. As a legislature-funded agency, the Commission has little-to-no control over its appropriation.
6. The prosecution of COJ 50 has cost the Commission \$10,313.45 in taxable costs. If unable to recover these costs from Judge Kelly, the Commission's ability to

expend resources related to other Commission responsibilities will be diminished.

7. The Commission files a complaint in the Court of the Judiciary if and only if it is confident that clear and convincing evidence exists to sustain its charges.
8. If the Commission cannot recoup the costs of such lengthy investigations and complex litigation, it will be less able to pursue such investigations and litigation now and in the future.
9. The Commission's prosecution of this matter was the lengthiest, most complex, and costliest in recent years.
10. The Commission has incurred or paid sums in the investigation and trial of this cause which, by law, are allowable as costs. These sums are as follows (and are set forth in greater detail in Attachment "A"):
 - a. COJ 50 Court Reporter Costs (including Appearance Fee, Exhibits, Deposition disc, and/or transcription costs): \$6,799.00
 - b. JIC Investigation Court Reporter Costs: \$1,944.70
 - c. Copy Costs: \$1,359.75
 - d. Process Server Fees: \$210.00
11. Counsel has attached an affidavit in support of this motion and a copy of the invoices for the above expenses.

WHEREFORE, the Commission respectfully requests that this Court alter its judgment and tax costs against Judge Kelly and in favor of the Commission in the amount of

\$10,313.45, for taxable costs incurred in the investigation and prosecution of this action.

FURTHERMORE, the Commission would respectfully call to this Court's attention consideration of taxing its costs for a verbatim transcript of all proceedings before the Court pursuant to Alabama Court of the Judiciary Rule 21.

Respectfully submitted, this 6th day of June, 2018.

 /s/ William A Gunter V
William A. Gunter V
Attorney for the Commission

CERTIFICATE OF SERVICE

I certify that, on this 6th day of June, 2018, a copy of the foregoing has been filed electronically with the Court of the Judiciary and a copy of the same has been served on attorneys for Respondent, through electronic mail:

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_/s/ William A Gunter V_____
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