

State of Alabama Unified Judicial System  Form ARAP - 2      Rev .2 / 92	<b>LETTER OF TRANSMITTAL OF NOTICE OF APPEAL TO APPELLATE CLERK BY TRIAL CLERK</b>	Appellate Case Number  _____
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IN THE CIRCUIT COURT OF \_\_\_\_\_ Alabama Court of the Judiciary \_\_\_\_\_, COUNTY

APPELLANT	Judge Anita Kelly
V. APPELLEE	Alabama Judicial Inquiry Commission

Civil Action Number COJ #50	Date of Judgment May 11, 2018	Date of Post – Judgment Order June 12, 2018
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Written notice of appeal has been filed on the date indicated hereon (within 42 days from the entry of judgment or post-judgment order).

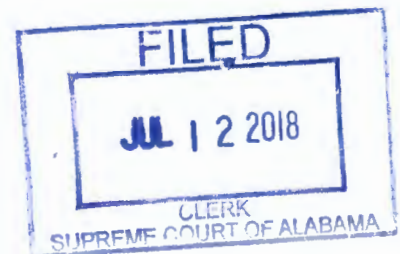
A certified copy of the written notice of appeal is forwarded herewith for filing with the Clerk of the (Supreme) Court (of Civil Appeals) along with the \$ 100 docket fee.

I certify that I have served a copy of this letter of transmittal along with a copy of the notice of appeal on each of the following:

1. Court Reporter      Dee J. Coker
2. Appellant's Counsel      H. Lewis Gillis / Mark Englehart
3. Appellee's Counsel      William Gunter V / Rosa H. Davis

DATED this      12th      day of      July      ,      2018      .

*Rebecca C. Oates*  
~~Circuit Clerk~~ Secretary,  
 Court of the Judiciary



State of Alabama Unified Judicial System Form ARAP-1 (front) Rev.1/97	<b>NOTICE OF APPEAL TO THE</b> (Check appropriate block) <input checked="" type="checkbox"/> <b>SUPREME COURT OF ALABAMA</b> <input type="checkbox"/> <b>COURT OF CIVIL APPEALS OF ALABAMA</b>	Civil Action Number:  COJ #50
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IN THE ALABAMA COURT OF \_\_\_\_\_ THE JUDICIARY \_\_\_\_\_ COUNTY, ALABAMA

APPELLANT	Judge Anita Kelly
V. APPELLEE	Alabama Judicial Inquiry Commission
TRIAL JUDGE	Hon. J. Michael Joiner (Chief Judge)
DATE OF JUDGMENT:	May 11, 2018
DATE OF POST – JUDGMENT ORDER:	June 12, 2018

NOTICE IS HEREBY GIVEN THAT Judge Anita Kelly appeal(s) to the above-named court from the  Final Judgment  Order of 180 days "suspension" without pay, denial of JML etc. entered in this cause. (describing it)

CHECK THE PROPER DESCRIPTION OF THE APPEALED CASE UNDER THE APPROPRIATE COURT:

<p><b>SUPREME COURT</b></p> <p>1. <input type="checkbox"/> Summary Judgment, amount claimed more than \$ 50,000</p> <p>2. <input type="checkbox"/> Judgment Amount exceeds \$50,000</p> <p>3. <input type="checkbox"/> Amount Sought in trial court more than \$50,000, Judgment for defendant</p> <p>4. <input type="checkbox"/> Equitable Relief, except for domestic relations</p> <p>5. <input checked="" type="checkbox"/> Other: <u>Final COJ Judgment</u></p>	<p><b>COURT OF CIVIL APPEALS</b></p> <p>1. <input type="checkbox"/> Summary Judgment, amount claimed \$ 50,000 or less</p> <p>2. <input type="checkbox"/> Judgment Amount \$50,000 or less</p> <p>3. <input type="checkbox"/> Amount Sought \$50,000 or less, judgment for defendant</p> <p>4. <input type="checkbox"/> Workmen's Compensation</p> <p>5. <input type="checkbox"/> Domestic Relations</p> <p>6. <input type="checkbox"/> Other: _____</p>
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APPELLANT FILES WITH THIS NOTICE OF APPEAL:

1.  Security for costs of appeal

2.  A supersedeas bond in the amount of \$ \_\_\_\_\_

3.  Deposited cash security in the amount of \$ \_\_\_\_\_

4.  Is exempted by law from giving security for costs of appeal by virtue of \_\_\_\_\_

Filed July 12, 2018 (Date)

H. Lewis Gillis / Mark Englehart  
Address 60 Commerce St., Suite 200 (334) 270-1033  
Montgomery, AL 36104 Telephone Number  
Appellant or Attorney for Appellant  
Email hlgillis@meansgillislaw.com / jmenglehart@gmail.com

CERTIFIED AS A TRUE COPY  
Rebecca C. Oates  
Circuit Clerk Secretary,  
Court of the Judiciary

**SECURITY FOR COSTS**

We hereby acknowledge ourselves security for costs of appeal. For the payment of all costs secured by this undertaking, we hereby waive our right of exemption as to personal property under the Constitution and laws of the State of Alabama.

Executed with our seals this 12th day of July, 2018

Filed and approved: July 12, 2018 (Date)

Anita Kelly (L.S.)  
Appellant-principal

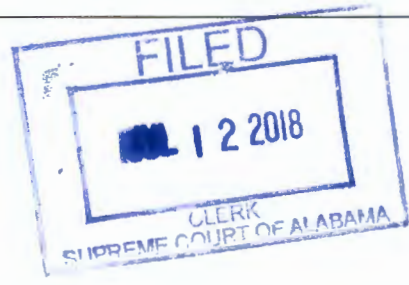
H. Lewis Gillis (L.S.)  
Surety

Mark Englehart (L.S.)  
Surety

Rebecca C. Oates  
Circuit Clerk Secretary,  
Court of the Judiciary

**SUPERSEDEAS BOND**

We, the undersigned principal and sureties, hereby acknowledge ourselves bound unto \_\_\_\_\_ In the sum of \_\_\_\_\_ Dollars, for the payment of which we bind ourselves, and each other, our heirs, executors, [(for amount of bond see Rule 8(a) and administrators, jointly and severally, and as part of this undertaking we hereby waive our rights of exemption as to personal property under the Constitution and laws of the State of Alabama.



WHEREAS, the above-named appellee (s) recovered a judgment against appellant (s) for the sum of \_\_\_\_\_ Dollars (and the further acts or duty \_\_\_\_\_) [describing judgment in addition to or other than for money only] \_\_\_\_\_ Dollars, the costs in that behalf expended.

NOW, therefore, the condition of the foregoing obligation is such that, if the appellant shall prosecute this appeal to effect, and satisfy such judgment, penalties, and costs including costs of appeal as may be rendered in this case, then the said obligation to be null and void, otherwise to remain in full force and effect.

Executed with our seals this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

Filed and approved: \_\_\_\_\_ (Date) \_\_\_\_\_ (L.S.)  
Appellant-principal

\_\_\_\_\_  
Surety (L.S.)

\_\_\_\_\_  
Circuit Clerk

\_\_\_\_\_  
Surety (L.S.)

## EXECUTION OF JUDGMENT STAYED:

Bond fixed at: \$ \_\_\_\_\_ (L.S.)  
(Not required for money judgment only.) \_\_\_\_\_  
Circuit Judge

## DESIGNATION OF RECORD ON APPEAL

DESIGNATION OF CLERK'S RECORD: Appellant requests the clerk to include the following checked materials in the clerk's record:

1.  Complaint
2.  Answer
3.  Counter-claim
4.  Cross-Claim
5.  Third-party Complaint
6.  Third-party Answer
7.  Motion to dismiss
8.  Pretrial order

9.  Entire record (less those items set forth in Rule 10 (a))
10.  Motion for summary judgment
11.  Opposition to motion for summary judgment
12.  Final (Judgment) (Order)
13.  Motion for New Trial
14.  Ruling on Motion
15.  Others: \_\_\_\_\_
16.  Exhibit Number: \_\_\_\_\_

## TRANSCRIPT STATUS

- Transcript will not be ordered. [See Rule 10(b), ARAP.]
- Transcript will be ordered. [See Rules 10(b)(2) and 11 (a)(2), ARAP.  
Form 1A or 1B.] Court reporter(s):  
Dee J. Coker

NOTE: If more than one court reporter was involved in this case, you must file a Transcript Purchase Order Form in compliance with Rules 10(b) and 11(c), Form 1A or 1B of the ARAP, for each court reporter.  
(Amended October 1, 1991.)

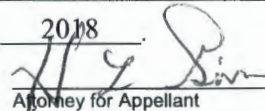
## CERTIFICATE OF FILING

I certify that I have this date filed with the clerk of the trial court the original and 5 copies of the foregoing notice of appeal (along with \$ 100 docket fee), and such other instruments as have been completed and included herein. A true copy of each of these items will be served by the clerk of the trial court on each of the following:

- 1) Clerk of the appellate court, (the \$ 100 docket fee shall be transmitted with this filing) or affidavit of hardship.
- 2) Court Reporter.
- 3) Counsel for appellee, or appellee if no counsel.

Name: William Gunter V / Rosa H. Davis - Judicial Inquiry Commission  
Address: 401 Adams Avenue, Suite 720, Montgomery, AL 36104 bill.gunter@jic.alabama.gov

DATED this 12th day of July, 2018

  
Attorney for Appellant

(Amended October 1, 1991.)

**State of Alabama Unified Judicial System**  
**Form ARAP-24 (front) 1/97**

**DOCKETING STATEMENT**  
**Appeal to the Supreme Court of Alabama**  
*NOTE: completed Civil Case Cover Sheet must be attached*

**Appellate Case Number**  
 (to be filled in by appellate court)

COUNTY Ala. Court of Judiciary CIVIL ACTION NUMBER COJ #50 TRIAL JUDGE J. Michael Joiner (Chief Judge)

**I. PARTY/ PARTIES FILING** Judge Anita Kelly  
 APPEAL (Appellant): \_\_\_\_\_  
 APPELLANT'S ATTORNEY: H. Lewis Gillis / Mark Englehart ( 334 ) 270-1033  
Address City State Telephone Number Zip Code  
60 Commerce St., Suite 200 Montgomery Alabama 36104

**II. PARTY/ PARTIES APPEALED** Alabama Judicial Inquiry Commission  
 APPEAL (Appellee): \_\_\_\_\_  
 APPELLEE'S ATTORNEY: William Gunter V / Rosa H. Davis ( 334 ) 242-4089  
Address City State Telephone Number Zip Code  
401 Adams Avenue, Suite 720 Montgomery Alabama 36104

**III. APPELLANT IS THE TRIAL COURT:**  Plaintiff  Defendant  Other **IV. IS THIS A CROSS-APPEAL?**  Yes  No

**V. RELIEF AWARDED/REQUESTED:** please check the appropriate block (s):

**A.**  Monetary damages were either sought or awarded, as set out below:

1. Compensatory damages were: (a)  awarded in the amount of \$ \_\_\_\_\_;  
 (b)  not awarded, but sought in the amount of \$ \_\_\_\_\_;  
 (c)  sought, but not awarded - the amount sought was not specified in the complaint.

2. Punitive damages were: (a)  awarded in the amount of \$ \_\_\_\_\_;  
 (b)  not awarded, but sought in the amount of \$ \_\_\_\_\_;  
 (c)  sought, but not awarded - the amount sought was not specified in the complaint.

3. A general award of damages ( not differentiating between compensatory and punitive) was: (a)  made in the amount of \$ \_\_\_\_\_;  
 (b)  not made, but sought in the amount of \$ \_\_\_\_\_;  
 (c)  sought, but not made - the amount sought was not specified in the complaint.

4. Other monetary damages (Type: \_\_\_\_\_) were: (a)  awarded in the amount of \$ \_\_\_\_\_;  
 (b)  not awarded, but sought in the amount of \$ \_\_\_\_\_;  
 (c)  sought, but not awarded - the amount sought was not specified in the complaint.

5. Was there a remittitur or additur at issue in the trial court?  Yes  No  
 (if yes, please provide the details in the "FACTS" section on the back of this form)

**B.**  Equitable and/or declaratory relief was sought in the trial court  
**C.**  Other  
 (Please provide in the details of the issue(s) before the Court in the "ISSUES" section on the back of this form.)



**VI. TYPE OF JUDGMENT OR ORDER APPEALED.** (Please check one):

A  Judgment based on a jury Verdict D  Order granting a New Trial G  Dismissal  
 B  Judgment based on a Non-jury Decision E  Judgment as a Matter of Law H  Default Judgment  
 C  Judgment Notwithstanding the Verdict (JNOV) F  Summary Judgment I  Other

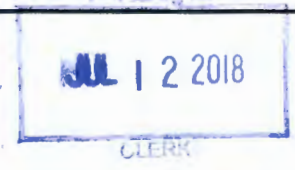
**VII. IF THE CASE WENT TO TRIAL, HOW MANY DAYS DID THE TRIAL TAKE?** 5

**VIII. FINALITY OF JUDGMENT:** Date of entry of judgment or order appealed from: May 11 2018  
Month Day Year

1. Is the judgment or order appealed from in compliance with rule 58, A.R.Civ.P.?  Yes  No  
 2. Does the order appealed from constitute a disposition of all claims as to all parties?  Yes  No  
 3. If not, did the trial court enter an order intended to make the order final pursuant to rule 54(b)?  Yes  No  
 4. If the trial court intended to make the order appealed from final pursuant to rule 54 (b), did the court in the Rule 54 (b) order expressly determine that there was no just reason for delay and expressly direct that final judgment be entered?  Yes  No  
 5. If the answer to question 2 is "NO", and the trial court did not make the order final by full compliance with Rule 54(b), please explain the basis for seeking appellate review and cite the authority for this appeal:  
 \_\_\_\_\_

**IX. POST-JUDGMENT MOTIONS:** List all post-judgment motions by date of filing, type, and date of disposition (whether by trial court order or by the provisions of Rule 59.1, A.R.Civ.P.):

DATE OF FILING			TYPE OF POST-JUDGMENT MOTION	DATE OF DISPOSITION		
Month	Date	Year		Month	Date	Year
June	6	2018	motion to alter judgment as to costs (filed by Jud. Inquiry Commission)	June	12	2018
June	8	2018	renewed motion for judgment as matter of law or new trial (by Judge Kelly)	June	12	2018



**X. CONSTITUTIONAL ISSUES:** 1. Are the provisions of Rule 44, A.R.App.P., applicable to this appeal?  Yes  No  
 2. If so, have the provisions been complied with?  Yes  No

**XI. NATURE OF CASE ON APPEAL:** In the left column of boxes proceeding the categories listed below, check the box (check only one) that best describes or categorizes the basis or theory of the primary issue on appeal. In the right column of boxes, check any secondary theories that are applicable to the suit.

<b>TORTS:</b>	10 <input type="checkbox"/> Real property	31 <input type="checkbox"/> Personal	44 <input type="checkbox"/> Declaratory judgment
01 <input type="checkbox"/> Bad Faith	11 <input type="checkbox"/> Wrongful Death (All Types)	32 <input type="checkbox"/> Pension	45 <input type="checkbox"/> Injunction (Commercial)
02 <input type="checkbox"/> Fraud	12 <input type="checkbox"/> Wantonness	33 <input type="checkbox"/> Insurance	46 <input type="checkbox"/> Injunction (Employment)
03 <input type="checkbox"/> Legal Malpractice	13 <input type="checkbox"/> Conversion	34 <input type="checkbox"/> Employment	47 <input type="checkbox"/> Injunction (Other)
04 <input type="checkbox"/> Medical Malpractice	14 <input type="checkbox"/> Wrongful Employ Termination	35 <input type="checkbox"/> Other: _____	48 <input type="checkbox"/> Extraordinary Writ
05 <input type="checkbox"/> Other Malpractice	15 <input type="checkbox"/> Premises Liability	<b>OTHER:</b>	49 <input type="checkbox"/> Pub. Service Comm
06 <input type="checkbox"/> Products/AEMLD	16 <input type="checkbox"/> Outrage	40 <input type="checkbox"/> Real Property	50 <input type="checkbox"/> RR/Seaman(FELA)
07 <input type="checkbox"/> Negligence (Vehicular)	29 <input checked="" type="checkbox"/> Other: <u>COJ discipline</u>	41 <input type="checkbox"/> Civ Rights (Prisoner)	51 <input type="checkbox"/> RICO
08 <input type="checkbox"/> Negligence (Gen./other)	<b>CONTRACTS</b>	42 <input type="checkbox"/> Civil Rights (Other)	99 <input type="checkbox"/> Other: _____
09 <input type="checkbox"/> Personal Property	30 <input type="checkbox"/> Commercial	43 <input type="checkbox"/> Wills/Trusts/ Estates	

**XII. APPELLATE REVIEW:** Please take notice that your case may be initially reviewed by the Court of Civil Appeals. Pursuant to § 12-2-7, Code of Alabama 1975, the Supreme Court has the authority to transfer any civil case within its jurisdiction to the court of Civil Appeals, except cases presenting a substantial question of federal or state constitutional law; cases involving a novel legal question, the resolution of which will have significant statewide impact; utility rate cases appealed pursuant to § 31-1-140, Code of Alabama 1975, bond validation cases appealed pursuant to § 6-6-754, Code of Alabama 1975, or Alabama State bar disciplinary proceedings.

If you believe this case should not be transferred to the Court of Civil Appeals, please state with specificity the reason(s) why it should not be transferred, referring to pertinent sections of § 12-2-7. Reasons should be supported in the ISSUES and FACTS sections of this docketing statement.

This is a direct appeal of an adverse disciplinary ruling by the Alabama Court of the Judiciary, pursuant to Amendment 581, section 6.18(b), of the Alabama Constitution.

**XIII. ISSUES:** Briefly summarize the issue(s) on appeal.

Issues include: 1) Whether the lack of a verified complaint to JIC supporting any charge in the COJ complaint is a jurisdictional defect, or a failure of a mandatory condition precedent to suit, requiring dismissal; 2) Whether JIC's failure to notify Judge Kelly it was investigating areas of her docket other than dependency cases required dismissal of charges in those areas; 3) Whether the Canons of Judicial Ethics and other Alabama law, as applied to Judge Kelly, are void for vagueness and failed to give fair notice that the charged conduct would violate the Canons, in violation of due process; 4) Whether JIC proved each charge by clear & convincing evidence; 5) Whether COJ erred in denying JML or new trial

**XIV. FACTS:** without argument, briefly summarize the facts to inform the court of the nature of the case.

JIC charged Judge Kelly with a pattern and practice of unreasonable and unjustifiable delays and failures to rule, in violation of several Canons. The charges quintupled the number of cases JIC had notified Judge Kelly were being investigated; added several new areas of her docket on which Judge Kelly had no notice; and no substantive allegation was supported by a sworn complaint to JIC. Before trial, JIC twice more through amendments dramatically expanded (all in the new areas) the cases of alleged delay (ultimately well over 600). Judge Kelly denied any pattern and practice of such delays, especially given the the rapid expansion of her new case filings and decrease in resources, and the lack of notice as to when alleged delay would become "unreasonable" and "unjustifiable" as to violate any Canon. COJ found Judge Kelly guilty of all charges, but found she had violated only some of the Canons; and as penalty, in effect "suspended" Judge Kelly for 180 days without pay.

July 12, 2018 \_\_\_\_\_  
 Date Signature of Attorney/Party Filing this Form

State of Alabama Unified Judicial System  Form ARAP-1A      Rev. 8/91	<b>TRANSCRIPT PURCHASE ORDER          OF APPELLANT – CIVIL</b>  <i>(See Rules 10(b) and 11(a) of the Alabama Rules of Appellate Procedure)</i>	<b>Appellate Case Number</b> (To be filled in by appellate court) <b>COJ #50</b>
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<b>APPELLANT</b>	<b>JUDGE ANITA KELLY</b>
v. <b>APPELLEE</b>	<b>ALABAMA JUDICIAL INQUIRY COMMISSION</b>

Civil Action Number	<b>COJ # 50</b>	Trial Judge	<b>Hon. J. Michael Joiner (Chief Judge)</b>
Court Reporter	<b>Dee J. Coker</b>	County	<b>Montgomery</b>
		Date of Notice of Appeal	<b>July 12, 2018</b>

**PART I. TO BE COMPLETED AND FILED WITH THE COURT REPORTER BY APPELLANT WITHIN 7 DAYS OF THE FILING OF THE NOTICE OF APPEAL.**

- A. Request is hereby made to the reporter for a transcript of the following proceedings (give particulars):  
 NOTE: exhibits are included in the clerk's record and need not be specified - see Rule 10 (b)(1), A.R.App.p.
- |   |  |
|---|--|
| <input checked="" type="checkbox"/> Entire Transcript                           | <input checked="" type="checkbox"/> Oral Charges to the Jury   |
| <input type="checkbox"/> Testimony of Plaintiff                                 | <input checked="" type="checkbox"/> Objection to Oral Charge   |
| <input type="checkbox"/> Testimony of Defendant                                 | <input checked="" type="checkbox"/> Objection to Refused Requested Written Charge(s), Numbers - <b>all</b> |
| <input checked="" type="checkbox"/> Testimony of Witness - <b>all witnesses</b> | <input checked="" type="checkbox"/> Others: <b>all pretrial motions, arguments, etc.</b>                   |
| <input type="checkbox"/> Testimony of Witness _____                             |  |
- NOTE: Unless the entire transcript is ordered, appellant must attach a statement of the issues to pages 4 and 5.

B. I CERTIFY that I HAVE paid the Court Reporter the estimated cost of transcribing that part of the proceedings I have deemed necessary to be included in the record.

Date: July 12, 2018      Signature: *H. J. Joiner*      Telephone Number: (334) 270-1033

NOTE: Upon Completion of PART I, appellant should distribute pages as follows:

* Pages 1, 2 and 3 – Court Reporter	Page 4 – Trial Court	Pages 5 – Appellee	Pages 6 – Retained by appellant
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**PART II. TO BE COMPLETED BY COURT REPORTER ON SAME DATE TRANSCRIPT PURCHASE ORDER IS RECEIVED.**

A. Date Transcript Purchase Order Received	Estimated Completion Date
Estimated Number of Pages	Estimated Cost

B. I CERTIFY THAT  I HAVE  I HAVE NOT (Check one) been paid the estimated cost of the transcript.

Date: \_\_\_\_\_ Signature: \_\_\_\_\_ Telephone Number: \_\_\_\_\_

NOTE: Upon Completion of PART II, Court Reporter should distribute pages as follows:

* Pages 1 and 2 – Retained by the Court Reporter	Pages 3 – Transmitted to the Appropriate Appellate Court on Same Date Transcript Purchase Order is Received.
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**PART III. CERTIFICATE OF COMPLETION OF REPORTER'S TRANSCRIPT**

NOTE: This is to be completed by court reporter on date of filing of transcript in trial court. On the day of completion, this certificate must be forwarded to the appropriate appellate court (page 2) and copies thereof shall be served on the clerk of the trial court and each of the parties.

I CERTIFY that I have this date completed and filled with the clerk of the trial court the original of a true and correct transcript of the evidence and matters designated by the parties. All pages are numbered serially in the upper right corner of the pages, prefaced by an index, and ending with the following number: \_\_\_\_\_

I CERTIFY that photocopies of this certificate are this date being served on the clerk of the trial court and each of the parties, along with a copy of the index (with copies of the transcript as ordered).

Dated this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ Court Reporter

NOTE: Upon Completion of PART III, Court Reporter should distribute pages as follows:

* Pages 1 - Retained by the Court Reporter	Pages 2 – Transmitted to the Appropriate Appellate Court
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* Distribution Code:	Page 1: White	Page 2: Blue	Page 3: Green	Page 4: Canary	Page 5: Pink	Page 6: Goldenrod
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