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Judge sanctions Georgia's ethics chief, AG's Office

POLITICS

By Aaron Gould Sheinin

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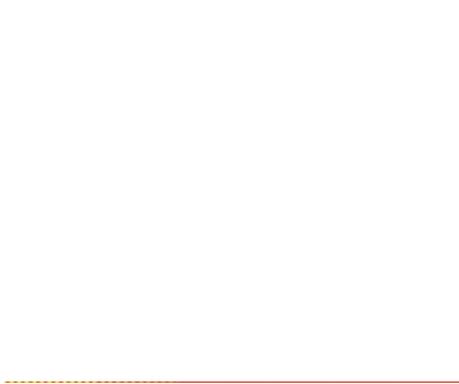
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The Atlanta Journal-Constitution has spent years following infighting, funding lapses and legal challenges plaguing the state's ethics commission. To see an interactive timeline detailing all our coverage, go to MyAJC.com.

Fulton County Superior Court Judge Ural Glanville on Wednesday slammed the Attorney General's Office and the state ethics commission's director, fining each \$10,000 for failing to turn over key documents in a whistleblower lawsuit involving the commission and Gov. Nathan Deal's office.

Glanville said former ethics commission director Stacey Kalberman was entitled to evidence that showed top Deal aides texted and called her successor, current director Holly LaBerge, in the days before the commission ruled on complaints against the governor's 2010 campaign.

The judge saved his harshest words for LaBerge, who he said "has repeatedly proven herself to be dishonest and non-transparent."

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While the judge said he was “somewhat sympathetic with the ethical position” the AG’s office faced, the agency and LaBerge failed to comply with state law in what “amounts to a flagrant disregard” of the rules of litigation that amounts to “an injustice and an undermining of the confidence imposed by the citizens of the state of Georgia in the legal system.”

Edward Lindsey, who defended the Attorney General’s Office against the motion, said the department disagrees with the judge’s decision “and will review its legal options.”

“The department believes that the dedicated public servants in office worked diligently and ethically in this matter,” Lindsey said, adding that they “appreciate the judge recognizing the ethical dilemmas faced by the Department of Law when confronted with a ‘dishonest and nontransparent client’ in Ms. LaBerge.”

LaBerge plans to appeal the ruling, said her attorney, Lee Parks. Parks said the original lawsuit named LaBerge in her official capacity as a defendant, but Glanville levied sanctions against her personally.

“With all due respect,” Parks said, “we believe the judge wrongly elevated the sanctions motion against the state to something that it was never intended to be — one that sought to have Ms. LaBerge sanctioned personally.”

Parks said the “decision to hide this document during the litigation was not made by Holly.” Instead, it was made by a senior assistant attorney general and backed up by top staff to Attorney General Sam Olens, yet, Parks said, none of them were sanctioned personally.

“That is simply wrong,” Parks said.

LaBerge’s troubles may not be over, though.

Commission Chairwoman Hillary Stringfellow said she found the judge’s order “troubling.”

When asked how the commission could justify keeping LaBerge as its director, she deferred.

“I would rather not respond to that question right now,” she said.

Parks, however, has already told commissioners that LaBerge herself is a whistleblower, meaning another suit could be coming.

The judge fined LaBerge as an individual, which could mean she must pay the fine with her own funds. The \$10,000 fine to Attorney General Sam Olens’ office, however, would come from taxpayers, adding to the nearly \$3 million in costs to the state following payments to Kalberman and three other former commission employees who sued, or threatened to sue, over related whistleblower claims.

Should either LaBerge or the AG's Office challenge Glanville's ruling, the state Court of Appeals would hear the case. Georgia State University law professor Clark Cunningham said there "are certainly arguments to be made on appeal," but he said a trial judge "is given a lot of respect by the Court of Appeals."

Cunningham said Glanville's decision is "quite a remarkable judicial order."

"The judge clearly wants to send a message to the ethics commission and the attorney general about their unethical conduct," said Cunningham, the director of the National Institute for Teaching Ethics & Professionalism.

The evidence Glanville said Kalberman should have received was only [revealed in July](#), three months after a jury found Kalberman was forced from her job in 2011 for aggressively pursuing cases against the Deal campaign. Kalberman was awarded \$700,000 in damages and an additional \$450,000 in back pay and attorneys fees.

Kalberman's attorney, Kim Worth, [filed a motion for sanctions](#) in August and asked Glanville to fine LaBerge, the ethics commission and the Attorney General's Office a collective \$250,000 plus \$48,000 in attorneys fees for what she called "manifest injustice and fraud upon the Court." Kalberman asked that any fine go to the State Bar of Georgia to pay for legal ethics training.

Olens' staff has argued in court filings that their office did not act improperly and said LaBerge failed to inform them that the text messages still existed and that she forwarded copies of them to herself.

LaBerge's attorney, meanwhile, contends that Olens' office should have been aware of the text messages because they were outlined in a memo she wrote in July 2012 and turned over to the attorney general in 2013.

The memo also was not turned over to Kalberman, and Olens has said his staff determined they had no obligation to do so. Glanville pointedly disagreed and said the memo was "responsive" to Kalberman's request for documents.

The AJC [first reported](#) the memo's existence in July of this year. In it, LaBerge claims she felt pressured and threatened by the messages from Deal Chief of Staff Chris Riley and executive counsel Ryan Teague.

Deal has maintained that Riley and Teague were not threatening LaBerge or the ethics commission, formally known as the Government Transparency and Campaign Finance Commission. Instead, he said, they urged her to act on the complaints, which had been outstanding for years and to help set his schedule for the coming week.

A week later, on July 23, 2012, the commission voted to dismiss major charges against Deal, who agreed to pay \$3,350 in fees for technical defects in campaign reports.

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