

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

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|------------------------------------|---|-------------------------|
| BARBARA ANN WILSON, |) | |
| Plaintiff, |) | |
| |) | CIVIL ACTION NO. |
| v. |) | |
| |) | CV-10-KOB-2386 |
| CITY OF BIRMINGHAM, et al., |) | |
| Defendants. |) | |

**DEFENDANTS’ OBJECTION TO QUESTIONS REGARDING AUDIO
RECORDINGS IN THE DEPOSITIONS**

The Defendants, the City of Birmingham (“City”), a municipal corporation under the laws of the State of Alabama, and the Birmingham Library Board (“Board”), by and through their attorney of record, objects to questions and the use of audio tapes in the Depositions set for today, June 22, 2011 and June 23, 2011 as follows:

1. The depositions of the corporate representatives of the City of Birmingham and the Birmingham Library Board and various fact witnesses are set for today, June 22, 2011 and June 23, 2011 at Plaintiff’s Counsel’s office.
2. On December 9, 2010, via U.S. Mail, the Defendants forwarded *Defendants’ First Set of Interrogatories* and *First Request for Production* to the Plaintiff. Said discovery was due January 9, 2011. The Plaintiff failed to respond within

thirty (30) days. One discovery request made was the following:

“Any and all documents, writings, diaries, records, files, memos, tapes, photographs videotapes, or logs of any alleged sexual harassment and/or sexually hostile environment as alleged in the Complaint.”

3. The parties also agreed to exchange Rule 26 Initial Disclosures by December 30, 2010, with supplementation 30 days before the close of discovery that date being July 1, 2011. The Plaintiff failed to provide such by December 30, 2010.
4. On February 15, 2011, Defendants filed a motion to compel. Said motion was granted. (*Doc. 24*)
5. Plaintiff did not provide any tapes or audio pursuant to such discovery request as stated above.
6. On June 21, 2011, Plaintiff’s Counsel suddenly discloses that he is in possession of audio tapes and further provides a untimely supplemental initial disclosures. Plaintiff’s counsel hand delivers said audio tapes at around 4 pm on June 21, 2011.
7. Obviously, Defendants and Defendant’s Counsel have not been able to review said audio tapes prior to the depositions set for June 22, 2011 and June 23, 2011.
8. Plaintiff and/or Plaintiff’s counsel either willfully or internationally knew of the existence of said audio tapes/recordings and failed to disclose and provide said audio tapes/recordings pursuant to the discovery request and Order compelling

discovery.

9. Defendants object to all questions by Plaintiff's counsel and the playing of said audio tapes/recordings in the depositions of all individuals set for June 22, 2011 and June 23, 2011.
10. Due to time constraints, Defendants anticipate filing further pleadings with the Court regarding this matter.

Respectfully submitted,

/s/Fredric L. Fullerton, II
Fredric L. Fullerton, II
Assistant City Attorney

City of Birmingham Law Department
600 City Hall
710 North 20th Street
Birmingham, Alabama 35203
(205) 254-2369/(205) 254-2502 FAX

CERTIFICATE OF SERVICE

I hereby certify that on June 22, 2011, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Adam P. Morel, Esq.
517 Beacon Parkway West
Birmingham, AL. 35209

/s/Fredric L. Fullerton, II
Of Counsel