

**FILED**

**JUN 18 2018**

**IN THE SUPREME COURT OF THE STATE OF NEVADA**

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY: *[Signature]*  
CHIEF DEPUTY CLERK

In the Matter of )  
 )  
THE HONORABLE RENA G. HUGHES, )  
Eighth Judicial District Court, Family Division, )  
Department J, County of Clark, State of Nevada, )  
 )  
Respondent. )

CASE NO. 76117

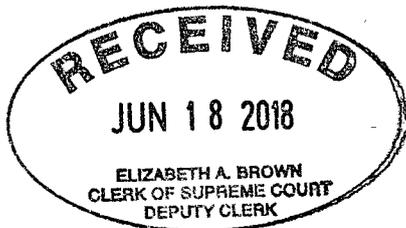
**CERTIFIED COPY OF FINDINGS OF FACT, CONCLUSIONS OF LAW AND IMPOSITION OF DISCIPLINE**

Pursuant to Commission Procedural Rule 28(2), I hereby certify that the document attached hereto is a true and correct copy of the FINDINGS OF FACT, CONCLUSIONS OF LAW AND IMPOSITION OF DISCIPLINE filed with the Nevada Commission on Judicial Discipline on June 18, 2018.

DATED this 18<sup>th</sup> day of June, 2018.

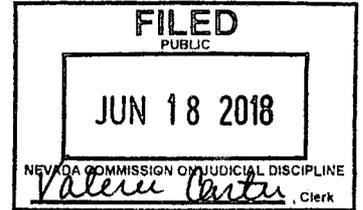
NEVADACOMMISSION  
ON JUDICIAL DISCIPLINE  
P.O. Box 48  
Carson City, NV 89702  
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By: *[Signature]*  
PAUL C. DEYHLE  
General Counsel and Executive Director  
Nevada Bar No. 6954



1 **BEFORE THE NEVADA COMMISSION ON JUDICIAL DISCIPLINE**

2 **STATE OF NEVADA**



3  
4 In the Matter of )  
5 THE HONORABLE RENA G. HUGHES, )  
6 Eighth Judicial District Court, Family Division, )  
7 Department J, County of Clark, State of Nevada, )  
8 Respondent. )

CASE NO. 2016-113-P

9 **FINDINGS OF FACT, CONCLUSIONS OF LAW AND IMPOSITION OF DISCIPLINE**

10 Pursuant to prior written notice, the above-entitled matter came on for a formal, one-day public  
11 hearing in Reno, Nevada pursuant to NRS 1.4673 and Commission Procedural Rule 18, commencing  
12 on May 30, 2018, before the Nevada Commission on Judicial Discipline (“Commission”), regarding the  
13 allegations against the Honorable Rena G. Hughes (“Respondent”) for violations of the Revised  
14 Nevada Code of Judicial Conduct (the “Code”).

15 Thomas C. Bradley, Esq. served as the Prosecuting Officer to the Commission (“Prosecuting  
16 Officer”) and was present. Respondent was present and represented by William B. Terry, Esq. During  
17 the hearing, the Commission considered all evidence and testimony presented.

18 The Commission makes the following findings of fact and conclusions of law as required under  
19 Commission Procedural Rule 28. The findings set forth below establish that Respondent violated  
20 multiple sections of the Code.

21 **A. FINDINGS OF FACT**

22 The Commission finds that the legal evidence presented by the Prosecuting Officer at the  
23 hearing clearly and convincingly established each of the following facts set forth in Paragraphs 1  
24 through 2 below:

25 1. Respondent was, at all times applicable to the allegations contained in the Formal  
26 Statement of Charges, a Judge for the Eighth Judicial District Court, Family Court Division, located in  
27 Clark County, Nevada, and whose conduct was subject to the Code.

28 ///

1           2.       The factual allegations in Count One of the Formal Statement of Charges regarding a  
2 family court custody case wherein Respondent held a mother in contempt of court on June 8, 2017 (1)  
3 without due process and a right to be heard, and (2) sanctioning the mother for contempt by changing  
4 custody and awarding the father sole legal and physical custody, have been proven by clear and  
5 convincing evidence.

6           The credible evidence established that Welthy Silva (“mother”) and Rogerio Silva (“father”)  
7 were divorced in 2013 in Clark County, Nevada. *See* Case No. D-12-467820-D. The parties had one  
8 minor child. In the original Decree of Divorce, the Court granted the mother primary physical custody  
9 and the father weekend visitation of the child. The parties were granted joint legal custody.

10           Beginning in May 2015, the parties began litigating several issues concerning the well-being of  
11 their child and whether the mother was interfering with the father’s visitation rights. During the next  
12 twelve months, Respondent held many hearings on these issues.

13           On May 12, 2016, an in-person hearing was held, during which the parties argued whether the  
14 mother was interfering with the father’s rights of visitation. Respondent then advised the mother that  
15 she was close to being held in contempt and being incarcerated. At the conclusion of the hearing, the  
16 Respondent ordered that the father shall have visitation with the child on the upcoming weekend and  
17 that the parties shall exchange the child under the supervision of Donna’s House Central, a program  
18 used by the Clark County Family Court to facilitate custody exchanges.

19           On May 14, 2016, the mother allegedly failed to comply with the recently ordered visitation and  
20 on May 17, 2016, the father’s counsel filed a motion to place the matter back on calendar regarding the  
21 visitation. On June 8, 2016, Respondent issued a Minute Order detailing the visitation issues (the “June  
22 8<sup>th</sup> Minute Order”). The Respondent concluded that “[t]his Court finds that Plaintiff [mother] is in  
23 contempt of the Court’s order to facilitate visitation on weekends with the Father, AN ORDER TO  
24 SHOW CAUSE SHALL ISSUE.” (Exhibit 7).

25           The June 8<sup>th</sup> Minute Order further stated, “[m]other shall bring the minor child to Dept. J, Court  
26 room [*sic*] #4, on June 15, 2016 at 1:30 p.m. If the Mother fails to deliver the minor child to the  
27 courtroom on June 15, 2016, she shall be deemed in further contempt of Court, and sentenced to  
28 twenty-five (25) days incarceration. If the Mother fails to appear, a bench warrant shall issue.” The

1 June 8<sup>th</sup> Minute Order also addressed other Order to Show Cause issues that were not related to  
2 visitation, and stated in closing, “[t]he Order to Show Cause Hearing shall be scheduled for July 28,  
3 2016 at 1:30 p.m.”

4 The mother arrived with her minor child at the scheduled hearing on June 15, 2016. Respondent  
5 ordered all parties except the minor child to leave the courtroom, and Respondent addressed the child  
6 for nine (9) minutes off the record. The mother was not allowed to return to the courtroom. In the  
7 mother’s absence, Respondent awarded the father temporary sole legal and physical custody,  
8 terminated the father’s child support obligation, ordered the mother to pay the statutory minimum child  
9 support to the father, and the mother was to have no contact with the minor child.

10 Respondent addressed the crying minor child by stating that the change in custody occurred  
11 because the mother and minor child were not cooperative with the court ordered visitations.  
12 Respondent further stated that if the minor child refused to go with the father she would end up in Child  
13 Haven, which Respondent referred to as a “jail for kids.”

14 At the court proceeding on June 15, 2016, no evidence or testimony was entered into the record  
15 regarding the change of custody, change in child support or the finding of contempt. No Order to Show  
16 Cause had previously issued regarding the failure to facilitate visitation or notice regarding the change  
17 of custody and/or child support, and no hearing on the merits was held.

18 The Commission found that the finding of contempt and change in custody was not in  
19 accordance with Nevada law in that Respondent held the mother in contempt without due process and  
20 an opportunity to be heard; and punitively sanctioned the mother by changing custody and awarding  
21 temporary sole physical and legal custody to the father. At the disciplinary hearing, Respondent  
22 testified that (1) she did not find the mother in contempt of court in the June 8<sup>th</sup> Minute Order; (2) the  
23 June 15, 2016 court proceeding was not a hearing but rather a custody exchange; and (3) the change in  
24 custody was not punitive but was in the best interest of the child. Despite Respondent’s words to the  
25 contrary set forth in her court minutes and orders, as well as in Respondent’s admissions in her  
26 interview with the Commission’s investigator and her answers to interrogatories (Exhibit 7, June 8<sup>th</sup>  
27 Minute Order; Exhibit 14, Commission Interview; and Exhibit 4, Respondent’s Interrogatory Answers),  
28 the Commission did not find the Respondent’s testimony credible and found that Respondent held the

1 mother in contempt and punitively changed custody, both without notice or an opportunity to be heard.

2 Respondent testified that she made a prima facie finding of contempt; however, the Commission  
3 found her testimony in this regard to be disingenuous. *See* Transcript of Proceedings, dated Wednesday,  
4 May 30, 2018 (“Transcript”), p. 24 Ins. 19 – 21; see generally p. 24 - 29. The June 8<sup>th</sup> Minute Order and  
5 the subsequent Order dated June 14, 2016 (which memorialized the June 8<sup>th</sup> Minute Order) (the “June  
6 14<sup>th</sup> Order”), state that Respondent found the mother in contempt of court; however, the finding was  
7 made prior to an order to show cause issuing, and without an affidavit on file or a hearing being held on  
8 the same. Therefore, the Commission found that the evidence supports that Respondent found the  
9 mother in contempt of court on June 8, 2016 for failing to facilitate weekend visitation with the father.

10 To further support her claim that she did not hold the mother in contempt on June 8, 2016,  
11 Respondent testified that the Order to Show Cause (“Visitation OSC”) that was served on the mother at  
12 the June 15, 2016 hearing was not appropriate because the May 12, 2016 visitation hearing had not  
13 been reduced to a written order. (Exhibit 9, June 15<sup>th</sup> Minute Order, Transcript, p. 59, Ins. 11-15). The  
14 Commission found Respondent’s testimony regarding the Visitation OSC troubling for three reasons.  
15 The first reason stems from the fact that Respondent improperly served the Visitation OSC on the  
16 mother after finding the mother in contempt for the failure to facilitate visitation in the June 8<sup>th</sup> Minute  
17 Order. The Visitation OSC should have been served on the mother and a hearing held prior to finding  
18 the mother in contempt. The second troubling aspect is that Respondent issued and served the  
19 Visitation OSC without an order to base it upon as no order regarding the initial May 12, 2016  
20 visitation hearing was ever signed and filed. (Exhibit E, R0133 Court Minutes dated July 28, 2016).  
21 Finally, the Commission disapproved of Respondent blaming a temporary clerk for rejecting the  
22 proposed order pertaining to the May 12, 2016 visitation hearing, and not informing Respondent of the  
23 rejection. (Transcript, p. 137, Ins. 2 -12). The Commission notes that Respondent has a duty to know  
24 her docket and accept responsibility for her actions.

25 Respondent also argued at the disciplinary hearing that she did not deprive the mother of her  
26 right to be heard regarding the change in custody or contempt sanction because the June 15, 2016  
27  
28

1 hearing was not a hearing but rather a custody exchange.<sup>1</sup> (Transcript p. 53, ln. 23 – p. 55, ln. 7). The  
2 Commission did not find Respondent’s testimony credible. The Commission found that it was in fact a  
3 hearing, as it was on the record, the court staff was present, the father had counsel with him, custody  
4 was changed, child support was awarded, the minor was ordered to be enrolled at the public school for  
5 which the father was zoned, the mother was to have no contact with the daughter, and attorney’s fees  
6 were awarded to the father. Accordingly, the credible evidence supports that the June 15, 2016 court  
7 appearance was a hearing in which the mother was deprived of her right to notice and right to be heard  
8 regarding contempt and change in custody. (Exhibit 9, June 15<sup>th</sup> Minute Order).

9 Furthermore, the Commission found that the change in custody was not primarily motivated by  
10 the best interest of the child. “In making a child custody determination, ‘the sole consideration of the  
11 court is the best interest of the child.’” *Davis v. Ewalefo*, 131 Nev. Adv. Op. 45, 352 P.3d 1139, 1143  
12 (2015) (quoting NRS 125.480(1) (2009)). “In determining the best interest of the child, the  
13 court shall consider and set forth its specific findings” with respect to, among other things, each of the  
14 twelve factors set forth in NRS 125C.0035(4). *Lewis v. Lewis*, 132 Nev. Adv. Op. 46, 373 P.3d 878,  
15 882 (2016) (emphasis added) (internal quotation marks omitted) (discussing the identical factors from  
16 NRS 125.480(4) (2009)). Moreover, the court must tie its findings with respect to each factor to the  
17 best interest of the child. *See Davis*, 131 Nev. at \_\_\_\_, 352 P.3d at 1143.

18 At the June 15, 2016 hearing, Respondent never considered the best interest factors, but rather  
19 stated on the record that she was changing custody because the mother and daughter failed to cooperate  
20 with visitation and, at the end of the hearing, added that it was in the best interest of the child.<sup>2</sup> (Exhibit  
21

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22 <sup>1</sup> No evidence was presented pertaining to any circumstances regarding the welfare and best interest of the minor child that  
23 would permit or justify a change in custody on June 15, 2016 without notice or a hearing. Moreover, there was no evidence  
24 that Respondent considered the best interest of the minor child as Respondent failed to consider and set forth specific  
25 findings as required by law. NRS § 125C.0035. Respondent averred that the proceeding was similar to a “pick-up order”  
26 pursuant to NRS 125C.0055, wherein if the court finds that it would be in the best interest of the minor child, the court may  
order that physical custody be changed; however, the child must be produced before the court as soon as practicable to  
allow the court to make a disposition of the best interest of the child. In this instance, physical custody changed on June 15,  
2016, and the evidentiary hearing was scheduled for October 11, 2016. A four-month period of time is not as soon as  
practicable.

27 <sup>2</sup> NRS 125C.0035(4) In determining the best interest of the child, the court shall consider and set forth its specific findings  
concerning, among other things:

28 (a) The wishes of the child if the child is of sufficient age and capacity to form an intelligent preference as to his or her  
physical custody.

(b) Any nomination of a guardian for the child by a parent.

1, JAVS recording). The Commission noted that Respondent's mere use of the words "best interest of the child" at the close of the June 15, 2016 hearing did not change the primary punitive motive for the change of custody.<sup>3</sup> Moreover, Respondent's witness, Judge Hoskin, testified that when changing custody, even temporarily, the primary purpose must be the best interest of the child, not to punish an uncooperative parent. (Transcript, p. 163, ln. 21 – p. 164, ln. 8). The Commission found that Respondent changed custody as a punitive measure, thereby failing to follow the law regarding contempt and change in custody.

Moreover, the Commission further found that the change in custody had a punitive aspect in that the mother was removed from the courtroom at the June 15, 2016 hearing, denied due process, and that the change in custody was an impermissible contempt sanction for the mother's failure to obey the prior visitation orders.<sup>4</sup> The Commission notes that the Nevada Supreme Court has held that a district court abused its discretion by improperly basing its decision to change custody upon a parent's failure to obey court orders. "This court has made it clear that a court may not use changes of custody as a sword to punish parental misconduct; disobedience of court orders is punishable in other ways." *Lewis v. Lewis*, 132 Nev. Adv. Op. 46, 373 P.3d 878, 882 (2016) citing *Sims v. Sims*, 109 Nev. 1146, 1149, 865 P.2d 328, 330 (1993). The same circumstances apply in this matter wherein Respondent used the contempt process to change custody. The Commission also found that Respondent should not have used

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- (c) Which parent is more likely to allow the child to have frequent associations and a continuing relationship with the noncustodial parent.
  - (d) The level of conflict between the parents.
  - (e) The ability of the parents to cooperate to meet the needs of the child.
  - (f) The mental and physical health of the parents.
  - (g) The physical, developmental and emotional needs of the child.
  - (h) The nature of the relationship of the child with each parent.
  - (i) The ability of the child to maintain a relationship with any sibling.
  - (j) Any history of parental abuse or neglect of the child or a sibling of the child.
  - (k) Whether either parent or any other person seeking physical custody has engaged in an act of domestic violence against the child, a parent of the child or any other person residing with the child.
  - (l) Whether either parent or any other person seeking physical custody has committed any act of abduction against the child or any other child.

<sup>3</sup> Moreover, NRS 22.100 limits the punishment for contempt to a fine not exceeding \$500 or the person may be imprisoned not exceeding 25 days, or both. A change of child custody is not a permitted sanction for contempt.

<sup>4</sup> The Commission held that the change in custody was punitive based upon Respondent's statements, the mother's expulsion from the hearing, and court minutes and orders stating that the change in custody was due to the mother's failure to facilitate visitation with the father in violation of prior orders of the court.

1 the contempt process to bypass the mother's due process rights. *Dagher v. Dagher*, 103 Nev. 26, 28,  
2 731 P. 2d 1329, 1330 (1987) (court may not use custody change as punishment).

3 In summary, the Commission found that Respondent, as a new judge, sought advice from more  
4 senior judges on how to handle this contentious case; but that even with such advice failed to follow the  
5 law and the Code. On June 8, 2016, Respondent found the mother in contempt of court for failing to  
6 facilitate visitation with the father in violation of prior court orders, without an affidavit or hearing on  
7 the same. Then on June 15, 2016, Respondent punitively changed custody, after removing the mother  
8 from the courtroom, based upon the prior finding of contempt, while simultaneously issuing an Order to  
9 Show Cause for the same, thereby violating the mother's due process rights. The Commission did not  
10 find Respondent's testimony credible that she did not find the mother in contempt on June 8, 2016; the  
11 June 15, 2016 hearing was not a hearing; nor her assertion that the change in custody was based upon  
12 the best interest of the child and not as a punishment to the mother for violating prior court orders.  
13 Finally, the Commission was concerned that Respondent did not admit to violating the Code.  
14 (Transcript, p. 55, lns. 12-15).<sup>5</sup>

15 Based upon the testimony and admitted evidence, the Commission found that Respondent's  
16 actions, by holding the mother in contempt of court on June 8, 2016 (1) without due process and a right  
17 to be heard, and (2) sanctioning the mother for contempt by changing custody and awarding the father  
18 sole physical and legal custody, Respondent violated the Code, including Judicial Canon 1, Rule 1.1,  
19 failing to comply with the law, including the Code; Rule 1.2, failing to promote confidence in the  
20 judiciary; Canon 2, Rule 2.2, failing to uphold and apply the law and failing to perform all duties of her  
21 judicial office fairly and impartially; Rule 2.5(A) failing to perform judicial and administrative duties  
22 competently and diligently; and Rule 2.6(A), failing to accord a party's right to be heard.

23 3. The Commission finds that the factual allegations contained in Count Two of the Formal  
24 Statement of Charges regarding patient, dignified and courteous conduct have not been proven by clear  
25 and convincing evidence.

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27 \_\_\_\_\_  
28 <sup>5</sup> Moreover, Respondent testified that her only regret regarding the entire June 15, 2016 proceeding was that "she [mother]  
put me in that position." (Transcript, p. 47, ln. 19).

1           **B.       CONCLUSIONS OF LAW**

2           1.       As to Count One of the Formal Statement of Charges, the Commission finds that the  
3 Prosecuting Officer has proven by clear and convincing evidence that Respondent’s actions constitute  
4 violations of Canon 1, Rule 1.1, failing to comply with the law, including the Code; Rule 1.2, failing to  
5 promote confidence in the judiciary; Canon 2, Rule 2.2, failing to uphold and apply the law and failing  
6 to perform all duties of her judicial office fairly and impartially; Rule 2.5(A) failing to perform judicial  
7 and administrative duties competently and diligently; and Rule 2.6(A), failing to accord a party's right  
8 to be heard.

9           Respondent’s testimony and arguments centered upon the mother being a pathogenic parent;  
10 however, even a “bad” parent is entitled to due process regarding custody of his or her child.<sup>6</sup> In  
11 *Gordon v. Geiger*, 402 P.3d 671, 674 (Nev. 2017), the Nevada Supreme Court held that parents have a  
12 fundamental right concerning custody of their children.

13           “[D]ue process of law [is] guaranteed by the Fourteenth Amendment of the United States  
14 Constitution and Article 1, Section 8(5)... of the Nevada Constitution.” *Rico v.*  
15 *Rodriguez*, 121 Nev. 695, 702–03, 120 P.3d 812, 817 (2005). Due process protects  
16 certain substantial and fundamental rights, including the interest parents have in  
17 the custody of their children. *Id.* at 704, 120 P.3d at 818. Further, due process demands  
18 notice before such a right is affected. *Wiese v. Granata*, 110 Nev. 1410, 1412, 887 P.2d  
19 744, 745 (1994). Accordingly, a “party threatened with loss of parental rights must be  
20 given opportunity to disprove evidence presented.” *Wallace v. Wallace*, 112 Nev. 1015,  
21 1020, 922 P.2d 541, 544 (1996) (citing *Wiese*, 110 Nev. at 1413, 887 P.2d at 746).

22           Parents are entitled to be afforded notice and an opportunity to be heard regarding a change in  
23 visitation or custody. *Gordon* at 675. Moreover, in *Gordon*, the Court noted that the district court’s  
24 findings were not supported by substantial evidence due to the fact that the district court relied upon  
25 unrecorded child interviews and an unsubstantiated CPS report, neither of which were admitted into  
26 evidence. *Id.* The Court reversed the district court’s sua sponte increase in the father’s visitation. *Id.*

27           In this matter, Respondent, in her June 8<sup>th</sup> Minute Order, sua sponte found the mother in  
28 contempt of court for failure to facilitate the minor child’s visitation with the father. (Transcript p. 50,  
ln. 23 – p. 51, ln. 1). Respondent testified that she decided to change custody on June 8, 2016, and  
effectuated the same at the June 15, 2016 hearing. (Transcript p. 50, ln. 6 – p. 51, ln. 25, p. 131, ln. 23 –  
p. 132, ln. 1). Respondent’s actions in finding the mother in contempt via a minute order, that was later

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<sup>6</sup> The Commission is not making a finding as to the parenting capabilities of either parent.

1 reduced to an order, expulsion of the mother from the courtroom and failure to address the best interest  
2 of the minor child in the order or hearing indicate the punitive nature of the change in custody. *See*  
3 *Gordon* at 675 (noting that on remand the district court must allow the parties to demonstrate whether  
4 custody or visitation modification is warranted based upon the child's welfare and best interest)  
5 (*citation omitted*). Moreover, "[i]n determining the best interest of the child, the court *shall* consider  
6 and set forth its specific findings" with respect to, among other things, each of the twelve factors set  
7 forth in NRS 125C.0035(4). *Lewis v. Lewis*, 132 Nev. Adv. Op. 46, 373 P.3d 878, 882 (2016)  
8 (emphasis added) (internal quotation marks omitted) (discussing the identical factors from NRS  
9 125.480(4) (2009)). The sua sponte finding of contempt and decision to change custody based upon  
10 reports from therapists and Donna's House violated the mother's due process rights.

11 The purpose of this hearing and the charges filed against Respondent do not rest on the  
12 behavioral issues of the mother, father and child, cross-generational parental alienation, enmeshment,  
13 victimization, a child's ability to articulate, therapeutic recommendations, or pathogenic parenting as  
14 heavily relied on by Respondent. Rather, this case centers around Respondent's actions in denying the  
15 mother an opportunity to be heard, the imposition of unlawful sanctions upon the mother as a  
16 punishment for contempt without a hearing in violation of Nevada law and the Code. The evidence  
17 clearly and convincingly demonstrated that the Respondent failed to comply with the law and the Code  
18 in this regard.

19 The totality of the evidence and testimony support that Respondent changed custody primarily  
20 to punish the mother. The Nevada Supreme Court has made it clear that "a court may not use changes  
21 of custody as a sword to punish parental misconduct; disobedience of court orders is punishable in  
22 other ways." *Lewis v. Lewis*, 132 Nev. Adv. Op. 46, 373 P.3d 878, 882 (2016) citing *Sims v. Sims*, 109  
23 Nev. 1146, 1149, 865 P.2d 328, 330 (1993). Notice and an opportunity to be heard are part of  
24 fundamental fairness that due process requires regarding child custody, and in this instance, Respondent  
25 failed to afford the mother her due process rights in violation of the law and the Code. A judge has a  
26 duty to know the law of contempt. *See generally, Goldman v. Nevada Comm'n on Judicial Discipline*,  
27 108 Nev. 251, 830 P.2d 107 (1992), *disapproved of on other grounds by In re Fine*, 116 Nev. 1001, 13  
28 P.3d 400 (2000).

1           2.       As to Count Two of the Formal Statement of Charges, the Commission found that the  
2 factual proof as to lack of being patient, dignified and courteous was insufficient to sustain the  
3 charges.<sup>7</sup>

4           3.       The Commission has both personal jurisdiction over the Respondent and subject matter  
5 jurisdiction over the violations of the Code at issue in this case.

6           **C.       IMPOSITION OF DISCIPLINE**

7           The Commission found it very troubling that the Respondent (1) was unfamiliar with the law on  
8 contempt and the proper sanctions to be imposed thereunder;<sup>8</sup> (2) blamed her temporary clerk for not  
9 advising her of matters that Respondent, as a judge, should already know;<sup>9</sup> (3) signed an order without  
10 first reviewing it carefully to ensure that it was accurate;<sup>10</sup> (4) relied on certain laws as authority for her  
11 actions where such laws were either inapplicable given the circumstances or not complied with as  
12 required by law;<sup>11</sup> (5) did not understand what constitutes a hearing;<sup>12</sup> and (6) attempted to explain

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13 <sup>7</sup> Count Two of the Formal Statement of Charges alleged that the Respondent violated the Code in failing to be patient,  
14 dignified and courteous to the mother and her minor child and provide them with due process and an opportunity to be  
15 heard. The Commission in Count One found that Respondent failed to provide the mother and her child with due process  
and the right to be heard; however, Count Two was dismissed based solely upon the patient, dignified and courteous aspects  
of the charge.

16 <sup>8</sup> Despite appearing before the Commission at a hearing on charges alleging that Respondent violated Nevada's contempt  
17 laws by ordering a change in custody as a sanction for contempt, Respondent testified that she did not recall the controlling  
18 cases which addressed those very same laws. (Transcript, p. 17, ln. 18 – p. 18, ln. 6). Even after arguing that her change of  
custody was not ordered as a punishment for contempt (which the evidence and her own statements contradict), but rather  
was based on the best interest of the child, Respondent still failed to consider and set forth specific findings in her order as  
required under NRS 125C.0035(4).

19 <sup>9</sup> Respondent testified that her temporary clerk did not advise her that an order regarding the May 12, 2016 visitation  
20 hearing had not issued prior to the Visitation OSC being served upon the mother. (Transcript, p. 136, ln. 14 – p. 137, ln.  
12).

21 <sup>10</sup> In response to a question from the Prosecuting Officer as to why certain words were not contained in her June 14, 2016  
22 Order, Respondent did acknowledge that her Order contained mistakes, but testified that, "I didn't draft this document."  
23 (Transcript, p. 29, lns. 2 – 17). The Prosecuting Officer then asked, "[i]f a judge reviews a proposed order written by a  
24 lawyer that's incorrect, the judge certainly can correct it or tell the lawyer how to correct it." *Id.* at p. 29, lns. 14 – 16. The  
Respondent replied, "I certainly can do that." *Id.* at ln. 17. Respondent clearly just signed the Order without reviewing it.  
25 When judges do not review proposed orders prepared by court clerks and attorneys, the likelihood of errors increases  
26 significantly. It is the public that is harmed by such apathy since the affected individuals must spend more time and money  
to correct it, not to mention the enormous emotional toll that is exacted on such individuals, particularly in family law cases.  
The existence of a large volume of cases to be processed offers little consolation to those affected by incorrect or unlawful  
orders and is not an excuse. The buck stops with the judges who are tasked with carrying out their judicial responsibilities as  
they were elected to do by the citizenry of the State of Nevada. A central part of those responsibilities is to carefully review  
documents before signing them.

27 <sup>11</sup> Respondent testified that custody was changed based on the best interest of the child under NRS 125C.0035, but failed to  
28 consider and set forth specific findings to that effect as required thereunder. Respondent also characterized the proceeding  
on June 15, 2016 as similar to a "pick-up order" pursuant to NRS 125C.0055, which was inapplicable given the  
circumstances. Even if NRS 125C.0055 was applicable, Respondent failed to comply with that statute as well.

<sup>12</sup> *See* p.4, ln. 25 – p. 5, lns. 1-8, *supra*.

1 away at least four separate incidences where Respondent either specifically stated that she was holding  
2 the mother in contempt, or ordered a change in custody and imposed discipline, for failing to facilitate  
3 visitation without a hearing, by arguing that she meant something other than what is expressly stated in  
4 her orders, court minutes, interrogatory answers and investigative interview.<sup>13</sup> Remarkably, even after  
5 an entire hearing of testimony and evidence, where the law of contempt was discussed extensively,  
6 Respondent still maintained that she did not violate any judicial rules. (Transcript, p. 55, lns. 12-15).

7 Accordingly, in consideration of the totality of Respondent's actions and violations of the Code,  
8 the Commission concludes that the appropriate discipline under Commission Procedural Rule 28 shall  
9 be as follows:

10 By unanimous vote of the Commission, after due deliberation and consideration of the evidence  
11 presented; Respondent's lack of prior discipline by the Commission; Respondent's character reference  
12 letters; and her status as an inexperienced judge at the time of this incident;<sup>14</sup> but nevertheless, in light  
13 of the seriousness of Respondent violating the mother's due process rights, it is decided that pursuant to  
14 subsections 5(a) and (b) of Article 6, Section 21 of the Constitution of the State of Nevada, NRS  
15 1.4653(1) and (2), NRS 1.4677(1)(a) and (d)(2), and Commission Procedural Rule 28, Respondent shall  
16 hereby be publicly reprimanded for having committed the acts as fully set forth above, and required to  
17 attend and complete, at her own expense, the course entitled "Managing Challenging Family Law  
18 Cases" at the National Judicial College in October of 2018; or such other similar course as may be  
19 available with the approval of the Commission's Executive Director, within one (1) year of the date of  
20 this Order. Respondent shall timely notify the Commission upon compliance with all requirements of  
21 this Order. If Respondent fails to comply with the requirements of this Order, such actions will result in  
22 her permanent removal from the bench. NRS 1.4677(1)(e).

23  
24 <sup>13</sup> Despite the evidence to the contrary, Respondent testified that she did not hold the mother in contempt, but rather made a  
25 prima facie finding of contempt. (Hearing Transcript, p. 24, ln. 19 – p. 25 ln. 2; see generally p. 25 – 29). Under this  
26 rationale, litigants and appellate courts would not be able to rely on the express statements in a judge's order, but rather  
27 would have to entertain the possibility that the judge intended something else. Not only is there no authority under the law  
28 for such legal gymnastics, but permitting such a construction would turn the law on its head.

26 <sup>14</sup> An experienced judge's ignorance of proper contempt procedures is willful misconduct. See *Goldman*, 108 Nev. at 251,  
27 830 P.2d at 135 (1992) (finding that bad faith is not synonymous with willful misconduct). However, the imposition of  
28 discipline does not require willful misconduct. NRS 1.4653(2) ("The Commission may publicly censure a judge or impose  
other forms of discipline on a judge if the Commission determines that the judge has violated one or more of the provisions  
of the Nevada Code of Judicial Conduct in a manner that is not knowing or deliberate.").

1 The primary purpose of the Revised Nevada Code of Judicial Conduct is the protection of the  
2 public, not the punishment of judges. The Commission protects the public by instilling confidence in  
3 the integrity of the judicial system in Nevada, as public trust is essential to the administration of justice.  
4 In carrying out this duty, the law provides the Commission a broad range of disciplinary measures to be  
5 imposed which include, but are not limited to, removal from office, suspensions, fines, educational  
6 requirements, public reprimands, etc. The imposition of discipline further serves the function of  
7 discouraging future misconduct by the disciplined judge, as well as the judiciary as a whole.  
8 Accordingly, the purpose of the Commission's decision in this case is to protect the public by issuing a  
9 public reprimand and educating, and thus, rehabilitating Respondent.

10 The discipline imposed against Respondent is based upon the facts of the case, the seriousness  
11 of the offenses involved, and consideration of mitigating circumstances.

12 **D. ORDER**

13 IT IS HEREBY ORDERED by unanimous vote of Commissioners Chairman Gary Vause,  
14 Bruce C. Hahn, Esq., Stefanie Humphrey, Laurence Irwin, Esq., John Krmpotic and the Honorable  
15 Thomas Stockard that Respondent be, and hereby is, publicly reprimanded for violations of Judicial  
16 Canon 1, Rule 1.1, failing to comply with the law, including the Code; Rule 1.2, failing to promote  
17 confidence in the judiciary; Canon 2, Rule 2.2, failing to uphold and apply the law and failing to  
18 perform all duties of her judicial office fairly and impartially; Rule 2.5(A) failing to perform judicial  
19 and administrative duties competently and diligently; and Rule 2.6(A), failing to accord a party's right  
20 to be heard.

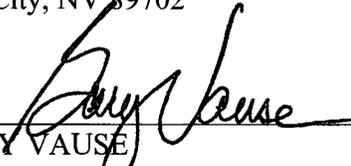
21 IT IS FURTHER ORDERED that Respondent shall within one-year of the date of entry of this  
22 Order, attend and complete, at her own expense, the National Judicial College course entitled  
23 "Managing Challenging Family Law Cases" in October of 2018; or such other similar course as may be  
24 available with the approval of the Commission's Executive Director.

25 IT IS FURTHER ORDERED that failure to comply with the educational requirement of this  
26 Order shall result in Respondent being permanently removed from the bench and forever barred from  
27 serving as a judicial officer in the future. NRS 1.4677(1)(e). Accordingly, the Commission retains  
28 jurisdiction over this matter for the required period of time for Respondent to comply with this Order.

1 IT IS FURTHER ORDERED by unanimous vote that the Chairman is authorized to sign this  
2 document on behalf of all voting Commissioners.

3 DATED this 18<sup>th</sup> day of June, 2018.

4  
5 STATE OF NEVADA  
6 COMMISSION ON JUDICIAL DISCIPLINE  
7 P.O. Box 48  
8 Carson City, NV 89702

9 By:   
10 GARY VAUSE  
11 COMMISSION CHAIRMAN  
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1 **CERTIFICATE OF SERVICE**

2 I hereby certify that I am an employee of the Nevada Commission on Judicial Discipline and  
3 that on the 18<sup>th</sup> day of June, 2018, I served a copy of the **FINDINGS OF FACT, CONCLUSIONS**  
4 **OF LAW AND IMPOSITION OF DISCIPLINE** by email and U.S Mail, postage paid, addressed to  
5 the following:

6 William B. Terry, Esq.  
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29 Tarah L. Hansen, Commission Clerk