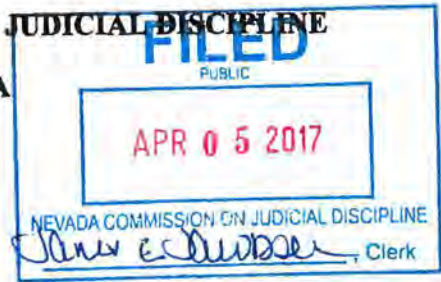


1 **BEFORE THE NEVADA COMMISSION ON JUDICIAL DISCIPLINE**
2 **STATE OF NEVADA**



3
4 In the Matter of)
5 THE HONORABLE DAWN HAVILAND)
6 Justice of the Peace, Goodsprings Township)
7 Justice Court, County of Clark, State of Nevada,)
8 Respondent.)
9)
10)

CASE NO. 2016-078-P

11 **PREHEARING ORDER**

12
13 TO: THE HONORABLE DAWN HAVILAND, Respondent
14 ALBERT MARQUIS, ESQ., Counsel for Respondent
15 KATHLEEN M. PAUSTIAN, ESQ., Prosecuting Officer

16 The purpose of the hearing will be to determine whether, pursuant to NRS 1.4673, there is clear
17 and convincing evidence to show that Respondent violated the Revised Nevada Code of Judicial
18 Conduct, as is alleged in the Formal Statement of Charges filed by Prosecuting Officer Kathleen
19 Paustian on or about March 1, 2017, and whether discipline is appropriate. Pursuant to Commission
20 Procedural Rule 3(4), five or more members must concur in a vote to discipline Respondent.

21 Within ten (10) days after service of the Order Setting Public Hearing and Notice of Panel
22 Members, Order Regarding Media Access, the Parties shall exchange certain material and information
23 as set forth in Commission Procedural Rule 19.

24 The hearing in this case will take place in Las Vegas, Nevada, on such date(s) to be set by the
25 Commission pursuant to Commission Procedural Rule 18(1).¹

26 Not less than thirty (30) days before the hearing, the Parties may submit a written request for the
27 Commission to issue subpoenas for the production of documents or to compel attendance or testimony
28 of the witnesses, if any, pursuant to NRS 1.466, Commission Procedural Rule 20, and NRCPC 45.

¹ This renders moot Respondent's Motion Requesting Hearing in Southern Nevada.

1 All pleadings, including accompanying legal memoranda, submitted in support of any motion
2 shall be limited to: fifteen (15) pages in length for the opening motion; fifteen (15) pages for the
3 opposition; and seven (7) pages for the reply. These limitations are exclusive of exhibits.

4 Pursuant to Commission Public Case Filing Procedures set forth in Exhibit "A" to the
5 Commission's Procedural Rules, any motion which by its nature could result in continuing or delaying
6 any scheduled hearing must be filed at least ten (10) days prior to the date set for the hearing.
7 Procedure 2(2). Any opposition must be filed within three (3) days of service. The motion will stand
8 submitted upon expiration of the time periods.

9 Not less than twenty-one (21) days before the hearing, the Parties are directed to confer in order
10 to reach any possible stipulations narrowing the issues of law and fact, and exchange documents that
11 will be offered into evidence at the hearing, and/or stipulate to any or all exhibits to be introduced at the
12 hearing.

13 Not less than ten (10) days before the hearing, the Parties shall prepare and serve
14 contemporaneously by email written prehearing briefs upon the Commission and the opposing Party.

15 The prehearing briefs shall include:

- 16 a. A brief statement of relevant facts, including any admitted or undisputed facts, not to exceed
17 one page.
- 18 b. A concise statement, not to exceed 2 pages, of the party's allegations or defenses and the
19 facts supporting the same. Such allegations, defenses and facts shall be organized by listing
20 each essential element of the allegation or defense and stating the facts in support of each
21 such element as they relate to the Formal Statement of Charges.
- 22 c. A statement of any issues of law, not to exceed 2 pages, supported by authorities with a brief
23 summary of the relevant rule and without additional argument. The parties should
24 emphasize any Commission opinions deemed relevant and applicable.
- 25 d. The names of each witness, except impeaching witnesses, the party expects to call, a clear
26 statement of the expected testimony of each witness and its relevance, and an estimate of the
27 time the party will require for the testimony of each witness. To the extent possible, provide
28 an estimate of time for cross-examination of the opposing party's witnesses.
- e. A list of the exhibits expected to be identified and introduced at the hearing for the purpose
of developing the evidentiary record and a concise statement of the relevancy to the
allegations, defenses and facts as stated in the statement required under paragraph (b) above
for each exhibit.
- f. A concise statement of any stipulations regarding the admissibility of an exhibit or expected
testimony of any witness offered by the opposing party.

- 1 g. A brief summary of any pre-hearing procedural or substantive motions, not to exceed one
2 paragraph. Except for any procedural or substantive motions that arise during the hearing,
3 all pre-hearing procedural and substantive motions must be submitted in accordance with
4 this Prehearing Order.
- 5 h. Any other appropriate comments, suggestions or information which may assist the
6 Commission in the disposition of the case, not to exceed one page.

7 Not less than (10) days before the hearing, the Parties shall electronically submit to the
8 Commission their exhibit book(s), consisting of the exhibits, if any, expected to be identified and
9 introduced as evidence at the hearing. The exhibit book(s) must include an index of the exhibits and
10 be Bates numbered. Additionally, eleven (11) bound hardcopies of the exhibit books must be hand-
11 delivered and/or overnighted to the Commission on Judicial Discipline, P.O Box 48, Carson City, NV
12 89702. The Parties shall exchange exhibit books in both electronic and hardcopy format, unless
13 otherwise agreed upon.

- 14 a) The Prosecuting Officer's exhibit book(s) must be tabbed and identified by numbers.
15 b) The Respondent's exhibit book(s) must be tabbed and identified by letters.

16 Within five (5) days of service of the prehearing brief, the Parties shall submit a concise
17 statement of any objections to the admissibility of any exhibit identified by the other party and, to the
18 extent possible, the expected testimony of any witnesses. Such statement shall not exceed 2 pages. If
19 no objection is stated as to any exhibit or expected testimony, the Commission will presume that there
20 is no objection to the admission of the listed exhibit or expected testimony into evidence.

21 The Parties shall electronically file and serve all documents not later than 5:00 p.m. on the
22 respective dates outlined herein to the Office of the Commission on Judicial Discipline at
23 ncjdinfo@judicial.state.nv.us, and upon the opposing Party.

24 The hearing is scheduled for five calendar days. The Prosecuting Officer will present evidence
25 regarding the basis for a finding of violations for twenty (20) hours. Special Counsel shall include an
26 opening statement in her presentation.

27 Respondent's counsel shall have twenty (20) hours to present evidence to rebut the charges, as
28 well as evidence in mitigation and extenuation of discipline. Respondent's counsel shall include an
opening statement in his presentation. It may be reserved until the close of his case, but it may not be

1 waived. The taking of evidence will begin at 8:00 a.m. and conclude at 5:00 p.m. each day, including
2 an hour for lunch. At the conclusion of the evidentiary phase, the Commission will entertain final
3 arguments not to exceed thirty minutes by each party. The scheduling of hours on each day is at the
4 discretion of the Commission.

5 Each party should note that the clerk of the Commission will keep track of the time consumed
6 by each side. The time consumed in cross-examination and any re-cross examination of the other
7 party's witness(es) will be deducted from the total time available to each party. The Presiding Officer
8 will make adjustments to the basic time allocation as necessary. In other words, one party will not be
9 permitted to consume the other party's time without consequence.

10 The rule of exclusion of witnesses will be in effect. Each party will be responsible for ensuring
11 that any intended witness (with the exception of the Respondent) is not present for testimony during
12 any portion of the hearing. The requirement not to discuss testimony with other witnesses will be a
13 continuing duty of each witness through the conclusion of the case.

14 If, after the presentation of evidence and final arguments, the Commission anticipates that it will
15 not have sufficient time to deliberate on site, the Commission may deliberate at a later time. The
16 Commission may allow post-hearing briefs, if necessary and requested, to be filed in this matter within
17 five (5) days of the conclusion of the hearing. A final decision will be announced thereafter in a
18 manner and format consistent with appropriate practice and the law.

19 The Honorable Thomas Armstrong is authorized to sign this order on behalf of the full
20 Commission.

21 IT IS SO ORDERED.

22 DATED this 4 day of April, 2017.

23 STATE OF NEVADA
24 COMMISSION ON JUDICIAL DISCIPLINE

25 

26 Honorable Thomas Armstrong, Commissioner
27 Presiding Officer

28

1
2
3 **CERTIFICATE OF SERVICE**

4 I hereby certify on this 5th day of April, 2017, I transmitted a copy of the foregoing
5 PREHEARING ORDER, via email and by placing said document in the U.S. Mail, postage prepaid,
6 addressed to:

7 Albert Marquis, Esq.
8 Marquis Aurbach Coffing
9 10001 Park Run Drive
10 Las Vegas, NV 89145
11 amarquis@maclaw.com

12 Kathleen M. Paustian, Esq.
13 Law Office of Kathleen M. Paustian
14 3205 Skipworth Drive
15 Las Vegas, NV 89107
16 kathleenpaustian@cox.net

17
18
19
20
21
22
23
24
25
26
27
28



Janet Jacobsen, Commission Clerk