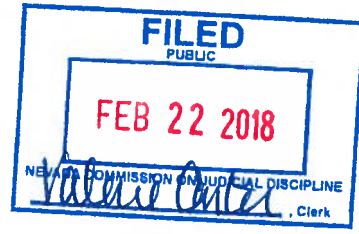


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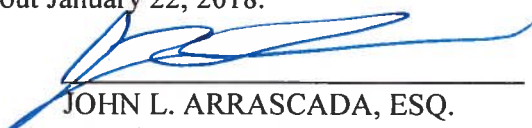
**BEFORE THE NEVADA COMMISSION ON JUDICIAL DISCIPLINE**


IN THE MATTER OF THE HONORABLE  
CHARLES WELLER, District Court Judge,  
Second Judicial District Court, Family  
Division, Washoe County, State of Nevada,  
  
Respondent.

Case No.: 2017-025-P

**VERIFIED RESPONSE AND ANSWER**

COMES NOW, Respondent, CHARLES WELLER, District Court Judge, Second Judicial District Court, Family Division, by and through his attorneys, the Law Office of David R. Houston, David R. Houston, Esq., and Arrascada & Aramini Ltd., John L. Arrascada, Esq., and files the instant Verified Response And Answer setting forth his answers, affirmative defenses and mitigating factors in response to the Formal Statement of Charges filed against him on or about January 22, 2018.

  
\_\_\_\_\_  
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Attorneys for Respondent

  
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Attorneys for Respondent

1 **FACTUAL ALLEGATIONS**

2 In answering the factual allegations set forth in the Formal Statement of Charges  
3 paragraphs A, B, C, D, the Respondent denies he violated Canons 1 and 2 of the Revised Code of  
4 Judicial Conduct (“the Code”) and further, the Respondent denies he violated Canon 1, Rule 1.1,  
5 Rule 1.2; Canon 2, Rule 2.2, Rule 2.3, Rule 2.4(A)(B)(C), Rule 2.8(B). The Respondent also  
6 denies the allegations in paragraph E.  
7

8 **COUNT ONE**

9 In answering those allegations set forth in Count One, the Respondent does deny that by  
10 his acts and comments during the Task Force Meeting on February 1, 2017 and his failure to  
11 clarify his comments during the meeting, he violated any of the Cannons or Rules alleged to  
12 have been violated in Count One. Specifically, Respondent denies that he violated Cannon 1,  
13 Rule 1.1, failing to comply with the law, including the Code; and Rule 1.2, failing to promote  
14 confidence in the independence, integrity and impartiality of the judiciary, avoiding impropriety  
15 and the appearance of impropriety; the Respondent further denies that he violated Cannon 2,  
16 Rule 2.2, failing him to act impartially and fairly; and Rule 2.3, failing to be free from bias; and  
17 Rule 2.5(A), failing to perform judicial and administrative duties competently and diligently.  
18 The Respondent denies that he abused his judicial authority by engaging in any or all, or any  
19 combination of, these alleged acts and/or omissions. Further, the Respondent denies that any of  
20 his acts and comments at the February 1, 2017 Task Force meeting and his failure to clarify his  
21 comments during the meeting were done with knowledge of facts that would amount to a  
22 violation of the Code.  
23  
24

25 **COUNT TWO**

26 In answering those allegations set forth in Count Two, the Respondent does deny that he  
27 violated: Cannon 1, Rule 1.1, failing to comply with the law, including the Code; and Rule 1.2,  
28

1 failing to promote confidence in the independence, integrity and impartiality of the judiciary,  
2 avoiding impropriety and the appearance of impropriety; the Respondent further denies that he  
3 violated Cannon 2, Rule 2.2, failing to act impartially and fairly; and Rule 2.3, failing to be free  
4 from bias; and Rule 2.4(A), (B) and (C), precluding a judge from being swayed by external  
5 influences in the performance of judicial duties, or conveying the impression of external  
6 influence; and Rule 2.8(B), failing to be patient, dignified and courteous to litigants, jurors,  
7 witnesses, lawyers, court staff, court officials and others which whom the judge deals in an  
8 official capacity, by (1) engaging in the acts, or a combination of the acts, listed above, (2)  
9 approaching Ms. Chavis and asking her to explain and clarify his comments at the Task Force  
10 meeting to others on his behalf, and (3) attempting to prevent the public dissemination of  
11 misconstrued statements and associated connotations. The Respondent denies that he abused his  
12 judicial authority by engaging in any or all, or any combination of, these alleged acts and/or  
13 omissions. Further, the Respondent denies that any of his aforementioned actions were done  
14 with knowledge of facts that would amount to a violation of the Code.

### 17 **COUNT THREE**

18 In answering those allegations set forth in Count Three, the Respondent does deny that he  
19 violated: Cannon 1, Rule 1.1, failing to comply with the law, including the Code; and Rule 1.2,  
20 failing to promote confidence in the independence, integrity and impartiality of the judiciary,  
21 avoiding impropriety and the appearance of impropriety; the Respondent further denies that he  
22 violated Cannon 2, Rule 2.2, failing him to act impartially and fairly; and Rule 2.3, failing to be  
23 free from bias; and Rule 2.4(A), (B) and (C), precluding a judge from being swayed by external  
24 influences in the performance of judicial duties, or conveying the impression of external  
25 influence; and Rule 2.8(B), failing to be patient, dignified and courteous to litigants, jurors,  
26 witnesses, lawyers, court staff, court officials and others which whom the judge deals in an  
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1 official capacity, by (1) engaging in the acts, or a combination of the acts, listed above, (2)  
2 approaching Ms. Utzig and asking her to explain and clarify his comments at the Task Force  
3 meeting to others on his behalf, and (3) attempting to prevent the public dissemination of  
4 misconstrued statements and associated connotations. The Respondent denies that he abused his  
5 judicial authority by engaging in any or all, or any combination of, these alleged acts and/or  
6 omissions. Further, the Respondent denies that any of his aforementioned actions were done  
7 with knowledge of facts that would amount to a violation of the Code.  
8

9 **AFFIRMATIVE DEFENSES (COUNT ONE)**

10 (1) The Respondent asserts that Count One of the Formal Statement of Charges fails  
11 to specifically identify how his conduct violated each of the cited Cannons as alleged.

12 (2) The Respondent asserts that his comments during the Task Force meeting on  
13 February 1, 2017 expressed his opinion concerning the motives of the some legislators who  
14 proposed cutting funding to VAWA, as well as the potential negative effects of said policy. The  
15 Respondent's comments constitute speech involving political issues and matters of public  
16 concern and are protected by the federal and state guarantees of free speech and expression.  
17

18 (3) The Respondent asserts that the charges brought against him, even if proven to be  
19 factually correct, fail to allege violations of the Code, Nevada statutes, or Nevada constitutional  
20 provisions.  
21

22 **AFFIRMATIVE DEFENSES (COUNT TWO)**

23 (1) The Respondent asserts that Count Two of the Formal Statement of Charges fails  
24 to specifically identify how his conduct violated each of the cited Cannons as alleged.

25 (2) The Respondent asserts that the charges brought against him, even if proven to be  
26 factually correct, fail to allege violations of the Code, Nevada statutes, or Nevada constitutional  
27 provisions.  
28

1 (3) To the extent that the alleged violations of the Code alleged in Count Two are  
2 based on the comments made by Respondent during the February 1, 2017 Task Force meeting,  
3 the Respondent's comments constitute speech involving political issues and matters of public  
4 concern and are protected by the federal and state guarantees of free speech and expression.  
5

6 (4) Respondent's communications with Ms. Chavez were necessary under Rule 1.2 of  
7 the Code of Judicial Conduct in order to promote confidence in the independence, integrity and  
8 impartiality of the judiciary.

9 **AFFIRMATIVE DEFENSES (COUNT THREE)**

10 (1) The Respondent asserts that Count Three of the Formal Statement of Charges fails  
11 to specifically identify how his conduct violated each of the cited Cannons as alleged.  
12

13 (2) The Respondent asserts that the charges brought against him, even if proven to be  
14 factually correct, fail to allege violations of the Code, Nevada statutes, or Nevada constitutional  
15 provisions. To the extent that the alleged violations of the Code in Count Three are based on the  
16 comments made by Respondent during the February 1, 2017 Task Force meeting, the  
17 Respondent's comments constitute speech involving political issues and matters of public  
18 concern and are protected by the federal and state guarantees of free speech and expression.

19 (3) Respondent's communications with Ms. Utzig were necessary under Rule 1.2 of  
20 the Code of Judicial Conduct in order to promote confidence in the independence, integrity and  
21 impartiality of the judiciary  
22

23 **MITIGATING CIRCUMSTANCES**


24 In answering the Formal Statement of Charges, the Respondent does assert that there are  
25 mitigating circumstances that are applicable to him, including but not limited to, the following:


- 26 (1) The absence of a prior disciplinary record;  
27 (2) The absence of a dishonest or selfish motive;  
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- (3) Free and full disclosure to the Judicial Ethics Panel and Cooperation;
- (4) The Respondent's good character and good reputation;
- (5) That the Respondent is remorseful for the fact that the instant Formal Statement of Charges has been filed.
- (6) Any and all other mitigating factors that Respondent may raise during these proceedings.

DATED this 22 day of February, 2018.

  
\_\_\_\_\_  
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Attorneys for Respondent

  
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VERIFICATION

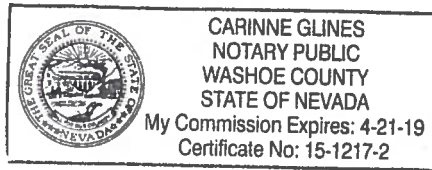
I, CHARLES WELLER, under penalty of perjury, being first duly sworn, deposes and says:  
That I am the Respondent in the above-entitled matter, that I have read the Answers to the  
Interrogatories above and know their contents, that the same is true of my own knowledge,  
except for those matters stated upon information and belief, and as to those matters, I believe  
them to be true.

DATED this 22 day of February, 2018,  
Charles Weller  
Charles Weller

STATE OF NEVADA        )  
  :ss.  
COUNTY OF WASHOE    )

SUBSCRIBED and SWORN to before me by, CHARLES WELLER, this 22 day of  
February, 2018.

Carinne Glines  
Notary Public



1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on this date I caused to be served via electronic mail and first class  
3 mail, a copy of the foregoing VERIFIED RESPONSE AND ANSWER with postage fully  
4 prepared thereon, by depositing the same with the U.S. Postal Service to the following:  
5

6 Kathleen M. Paustian, Esq.  
7 Law Office of Kathleen M. Paustian  
8 1912 Madagascar Lane  
9 Las Vegas, NV 89117  
10 kathleenpaustian@cox.net

11 David R. Houston, Esq.  
12 432 Court Street  
13 Reno, Nevada 89501  
14 dhouston@houstonatlaw.com-

15 DATED this 22 day of February, 2018,

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