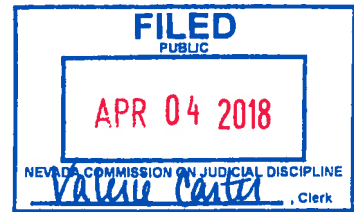


1 **BEFORE THE NEVADA COMMISSION ON JUDICIAL DISCIPLINE**

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.)
9)
10)

CASE NO. 2016-113-P

11 **ORDER DENYING MOTION TO TRANSFER HEARING TO LAS VEGAS, NEVADA OR, IN**
12 **THE ALTERNATIVE, TO DO SAID HEARING BY VIDEO**

13 TO: THE HONORABLE RENA G. HUGHES, Respondent
14 WILLIAM B. TERRY, ESQ., Counsel for Respondent
15 THOMAS C. BRADLEY, ESQ., Prosecuting Officer

16 Currently before the Commission on Judicial Discipline (“Commission”) is a Motion To
17 Transfer Hearing To Las Vegas, Nevada Or, In The Alternative, To Do Said Hearing By Video
18 (“Motion”), which was filed by counsel for the Honorable Rena G. Hughes, District Court Judge,
19 Eighth Judicial District Court, Family Division, Department J for Clark County, Nevada
20 (“Respondent”) on February 20, 2018. Opposition To Respondent’s Motion To Transfer Hearing To
21 Las Vegas, Nevada Or, In The Alternative, To Do Said Hearing By Video was filed by the Prosecuting
22 Officer for the Commission (“Prosecuting Officer”) on March 6, 2018. Reply to the Prosecuting
23 Officer’s Opposition was filed by the counsel for Respondent on March 23, 2018.

24 **STATEMENT OF FACTS**

25 The Formal Statement of Charges alleges that Respondent, a District Court Judge in Clark
26 County, Nevada, held a Ms. Silva (“mother”) in contempt without due process and an opportunity to be
27 heard; imposed a penalty for contempt that changed custody of the minor child by awarding sole
28

1 physical and legal custody to the father; and changed physical and legal custody of the minor child
2 without a hearing as required by Nevada law.

3 On February 20, 2018, Respondent filed her Motion to change the hearing location to Las
4 Vegas, or in the alternative, permit testimony by video. The Respondent states that if the hearing is
5 held in Reno it will come at a rather significant cost to the Eighth Judicial District Court because
6 Judges Charles Hoskin and Diane Steel are anticipated to testify, as well as Senior Judge Gloria
7 O'Malley. Additionally, Respondent states that one witness, Ms. Tiffany Skaggs, is unable to travel for
8 the hearing because she has a flight out of the country the next day. Moreover, Respondent estimates it
9 would cost her over \$4,000 to have the witnesses appear in Reno based upon air fare, food and lodging.
10 Respondent argued that the Commission has significant funds to cover the cost of the Commissioners'
11 travel and as such should bear the cost burden of the trial.

12 Respondent opines that the Commission's procedural rules afford too much discretion in setting
13 a trial location. She notes, the Commission has previously relied on *Jones v. Nev. State Bd. of Med.*
14 *Exam'rs*, to deny a motion for change in venue based on the rule therein that when a general venue
15 statute and a specific venue statute conflict, the specific statute takes precedence. *Jones v. Nev. State*
16 *Bd. Of Med. Exam'rs*, 342 P.3d 50, 52 (Nev. 2015). However, Respondent states that Jones is not
17 entirely on point. She argues that in *Jones*, despite the fact that NRS 630.355 applies to procedures
18 regarding an administrative agency, the two conflicting procedural rules were both adopted by the
19 Nevada legislature, and therefore sit on equal footing. In the present situation, one of the conflicting
20 rules, NRS 13.040, has been adopted by the legislature and enacted into law, while the other,
21 Commission Rule 18, is a rule adopted by the Commission on Judicial Discipline and by the Nevada
22 Supreme Court by court order in 1988.

23 While Nevada courts have the power to make their own procedural rules, Respondent alleges
24 that Commission Procedural Rule 18 affords the Commission too much discretion. She notes that
25 comparatively, procedural rules governing attorney disciplinary proceedings state that "venue shall be
26 the county in which the attorney resides or maintains his or her principal office for the practice of law,
27 where the alleged offense was committed or where the parties have stipulated." SCR 105(2)(c). She
28

1 makes the analogy that SCR 105(2)(c) more closely resembles the general venue statute NRS 13.040,
2 which calls for a determination of venue based on the defendant's residency.

3 Respondent further argues that she meets NRS 13.050(2)(c)'s requirements that "the court may,
4 on motion, change the place of trial... when the convenience of the witnesses and the ends of justice
5 would be promoted by the change." See also *Eaton v. Second Judicial Dist. Court*, 96 Nev. 773, 75, 616
6 P.2d 400, 401 (1980), overruled on other grounds by *Pan v. Eighth Judicial Dist. Court*, 120 Nev. 222,
7 228, 88 P.3d 840, 844 (2004). Respondent noted in her affidavit that having four judges, including
8 herself, in Reno would hamper the ability of the Eighth Judicial District Family Court Division to
9 function.

10 Moreover, Respondent argues that holding the hearing in Reno, Nevada constitutes an abuse of
11 discretion. See *Goodman v. Goodman*, 68 Nev. 484, 487-88, 236 P.2d 305, 306 (1951). *Jackson v.*
12 *State*, 117 Nev. 116, 120, 17 P.3d 998, 1000 (2001). She argues that the relative burdens imposed on
13 either side are markedly unequal because holding the hearing in Reno will burden the Eighth Judicial
14 District Family Court Division's functioning, inconvenience a number of witnesses, critically interfere
15 with Respondent's due process rights, and cost the Respondent an excessive and unwarranted amount of
16 money to defend her case.

17 In the alternative, Respondent requests that she and all witnesses testify from Las Vegas by
18 videoconference pursuant to NRCP 43(a). NRCP 43(a) states that "in every trial, the testimony of
19 witnesses shall be taken in open court ... The court may, for good cause shown in compelling
20 circumstances and upon appropriate safeguards, permit presentation of testimony in open court by
21 contemporaneous transmission from a different location." NRCP 43(a). Respondent acknowledges that
22 all pertinent language in this rule mirrors the Federal Rule of Civil Procedure Rule 43, and that in-
23 person testimony has value; however, the witnesses are judges and court staff and thus understand the
24 importance of testifying truthfully. Moreover, Respondent emphasizes that the functioning of the
25 Family Division of the Eighth Judicial District Court will be negatively impacted if several judges are
26 required to testify in Reno. Furthermore, one key witness is unavailable to testify in Reno based upon a
27 previously planned out of country trip.
28

1 Respondent further points out that the 1996 Committee Notes favor video transmission over
2 telephonic transmission, and that videoconferencing would allow the Commission to view each witness
3 as though they were sitting in-person at the hearing, noting that direct and cross examination with
4 documents and exhibits is possible, as is questioning by the panelists. She highlights that the
5 Commission would be able to observe witnesses' demeanor, facial expressions, reactions to questions,
6 body language, voice inflections, etc., which are all important elements in the fact-finder's task.

7 In summary, the Respondent argues that the facts and circumstances regarding the inability of a
8 key witness to attend, and the high cost to transport all witnesses there, may prevent Respondent from
9 adequately defending herself.

10 The Prosecuting Officer opposes Respondent's Motion to transfer the hearing location from
11 Reno to Las Vegas because the Respondent has failed to demonstrate extraordinary circumstances to
12 justify a change of venue, noting that the facts of the case are simple. The Prosecuting Officer
13 summarized the case as follows. In the underlying case, the mother and father had one child together.
14 The parties divorced in 2013 and the mother was granted primary custody and the father had weekend
15 visitation with the minor child. There were visitation problems and the father alleged that the mother
16 failed to comply with the recently ordered visitation, thus on May 17, 2016, the father's counsel filed a
17 Motion to place the matter back on calendar regarding the visitation.

18 On June 8, 2016, Respondent issued a Minute Order detailing the visitation issues. The
19 Respondent concluded that, "[t]his Court finds that Plaintiff [Mother] is in contempt of the Court's
20 order to facilitate visitation on weekends with the Father, AN ORDER TO SHOW CAUSE SHALL
21 ISSUE." The Minute Order further stated, "[m]other shall bring the minor child to Dept. J, Court room
22 [sic] #4, on June 15, 2016 at 1:30 p.m. If the Mother fails to deliver the minor child to the courtroom on
23 June 15, 2016, she shall be deemed in further contempt of Court, and sentenced to twenty- five (25)
24 days incarceration. If the Mother fails to appear, a bench warrant shall issue." The Minute Order also
25 addressed other Order to Show Cause issues that were not related to visitation, and stated in closing,
26 "[t]he Order to Show Cause Hearing shall be scheduled for July 28, 2016 at 1:30 p.m."

27 The mother arrived with her minor child at the scheduled hearing on June 15, 2016. Respondent
28 ordered all parties and counsel, except the minor child, to leave the courtroom, and addressed the child

1 for nine (9) minutes off the record. The mother was not allowed to return to the courtroom and was
2 escorted off the Courthouse property. In the mother's absence, Respondent awarded the father
3 temporary sole legal and physical custody, terminated the father's child support obligation, ordered the
4 mother to pay the statutory minimum child support to the father, and the mother was ordered to have no
5 contact with the minor child. The minor child was clearly distressed and cried during the entire
6 process. Respondent addressed the crying minor child by stating that the change in custody occurred
7 because the mother and minor child were not cooperative with the Court ordered visitations.
8 Respondent further stated that if the minor child refused to go with the father she would end up in Child
9 Haven, which Respondent referred to as a jail for kids.

10 The Prosecuting Officer summed up the case as having three issues: Did Respondent violate
11 Nevada law and the Judicial Code:

- 12 1) By holding Ms. Silva in contempt without due process and an opportunity to be
13 heard;
- 14 2) By imposing a penalty for contempt that changed custody of the minor child by
15 awarding sole physical and legal custody to the father; and
- 16 3) By changing physical and legal custody of the minor child without a hearing as
17 required by Nevada law.

18 The Prosecuting Officer argued that the Respondent incorrectly claims that the Commission's
19 Rules afford too much discretion and violate a Respondent's due process rights. The Prosecuting
20 Officer cited to *In the Matter of the Honorable Melanie Andress-Tobiasson*, Case No. 2014-094-P,
21 wherein the Commission relied upon *Jones v. Nev. State Bd. Of Med. Examiners*, 131 Nev. Adv. Op. 4
22 (Feb. 5, 2015) for holding the Judicial Commission hearing for a Las Vegas jurist in Reno, Nevada. He
23 argues that the doctrine of forum non conveniens is comprised of various factors, including a balancing
24 test of several factors such as public and private interests, access to sources of proof, availability of
25 compulsory process for unwilling witnesses, the cost of obtaining testimony from willing witnesses,
26 and the enforceability of a judgment and if failure to apply the doctrine would subject the defendant to
27 harassment, oppression, vexatiousness or inconvenience. *See Eaton v. Second Judicial Court*, 96 Nev.

1 773, 774 (1980) (citations omitted). *See also*, NRS 13.050. NRS 13.050(2)(c); *Mountain View*
2 *Recreation v. Imperial Commercial Cooking Equipment Co.*, 129 Nev. 413 (2013)(citations omitted).

3 The Prosecuting Officer notes that Respondent failed to disclose the substance of the testimony
4 of potential witnesses. For example, Respondent identifies Judge Diane Steel, Senior Judge Gloria
5 O'Malley, and Judge Charles Hoskin, but fails to include the substance of their expected testimony or
6 explain the relevance of their testimony. To counsel's knowledge, those Judges did not observe nor did
7 they have any involvement in the alleged misconduct. To the extent that Judges Hoskin and Steel will
8 provide a character reference, such evidence should be submitted by letter as is customarily done in
9 these cases. Accordingly, it is unclear if some of these witnesses will even be allowed to testify based
10 upon relevance and duplicity. *See* NRS 48.025 and 48.035.

11 Furthermore, the Prosecuting Officer notes that cost arguments are misguided as the witnesses
12 all could fly up and back the same day and thus the expenses would not amount to the \$4,000 claimed.
13 Moreover, the argument that less Commissioners would have to travel than witnesses is incorrect as
14 five (5) Commissioners would have to travel to a hearing for multiple days in Las Vegas, and as such
15 the cost is significant, but more importantly the availability of the Commissioners impacts the hearing
16 location decision as well. Thus, he argues that Commission Procedural Rule 18(1) instructs the
17 Commission to consult with Respondent and counsel regarding scheduling the date and time of the
18 hearing "where possible" to accommodate their schedules; and that occurred in this instance.

19 Respondent failed to demonstrate good cause to justify the use of videoconference to conduct
20 the hearing. The Prosecuting Officer acknowledges that the Commission possesses videoconference
21 capabilities between Reno and Las Vegas and has utilized it in a few uncontested hearings. The
22 Commission, however, does not have to grant such a request. *See* NRCP 43(a). Although the
23 Commission's procedural rules are silent as to whether hearings may be held by videoconference, the
24 Commission has previously determined that it is instructive to look to the Federal Rules of Civil
25 Procedure's standards governing videoconferences. *See In Re Andress-Tobiasson*, Case No. 2014-094-
26 P. Federal Rule of Civil Procedure 43 states that for "good cause in compelling circumstances and with
27 appropriate safeguards, the court may permit testimony in open court by contemporaneous
28 transmissions from a different location."

1 The Prosecuting Officer cites to the Federal Rules of Civil Procedure, Rule 43, Advisory
2 Committee's Notes which frown upon videoconferencing testimony without good cause. Notes to the
3 1996 Amendment to Rule 43(a); *see also Sille v. Parball Corp.*, 2:07-CV-00901-KJD, 2011 WL
4 2680560, at 2 (D. Nev. July 8, 2011). Moreover, the Prosecuting Officer cited to cases highlighting the
5 importance of in-person testimony. *See Edwards v. Logan* 38 F. Supp. 2d 463 , 467 W.D. Va. (1999);
6 *Morrow v. U.S Parole Commission*, 2012 WL 2877602); *United States v. Williams*, 641 F.3d 758, 764-
7 65 (6th Cir.20 11) (Being physically present in the same room with another has certain intangible and
8 difficult to articulate effects that are wholly absent when communicating by videoconference).

9 Further, the Prosecuting Officer argues that the Nevada Federal District Court found that, when
10 the federal rule states a court may permit contemporaneous transmission "for good cause in compelling
11 circumstances" the rule really means "for good cause in compelling circumstances." *Niemeyer v. Ford*
12 *Motor Co.*, 2:09- CV-2091 JCM PAL, 2012 WL 5199145, at 2 (D. Nev. Oct. 18, 2012). Additionally
13 the Prosecuting Officer states that a blanket request for authorization for video testimony was ruled"
14 problematic due to the fact it is unclear at this juncture how many of those witnesses will actually be
15 able to provide testimony relevant to the issues in this case." *Sille v. Parball Corp.*, 2:07-CV-00901-
16 KJD, 2011 WL 2680560, at 2 (D. Nev. July 8, 2011). He states, furthermore, in federal cases, monetary
17 expenses fail the good cause test. *See Vaughn v. Stevenson*, 2007 WL 460959, at 2-3 (D. Colo. 2007).
18 He argues that Respondent's allegations fail to meet the standard of "compelling circumstances." He
19 notes, however, if the Commission is inclined to grant testimony by videoconference, it should be
20 limited to certain relevant witnesses, and not the Respondent, based upon good cause. Finally, he notes
21 that the hearing at issue was videotaped so testimony regarding the events that transpired during the
22 hearing is unnecessary, and that the procedural history and pleadings are contained in the Court's
23 docket sheet and file so no oral testimony is needed regarding procedural history.

24 In conclusion, he argued that Respondent's Motion for Change of Venue should be denied
25 because the Respondent failed to show compelling circumstances to justify moving the hearing from
26 Reno to Las Vegas; and failed to disclose the substance or relevance of the testimony of her witnesses
27 so it is not possible to determine whether certain witnesses should be allowed to testify by
28

1 videoconference. Therefore, Respondent fails to meet her burden to allow videoconferencing and the
2 Motion should be denied.

3 Respondent's Reply noted that the witnesses, which are expected to be called, are all from Las
4 Vegas. She notes there may be changes or additions to the witnesses and Respondent is still considering
5 that at this point in time, however, no matter who specifically ends up testifying, however, it appears
6 that they will be from Las Vegas, Nevada since that is where the "event" occurred. Respondent states
7 that she was never consulted as to whether or not it would be convenient to have the hearing in Reno,
8 Nevada vs. Las Vegas, Nevada. The Respondent distinguishes the *Tobiasson* matter, where in that
9 instance the judge was the only witness.¹

10 ISSUE

11 Whether the venue for the formal hearing in question should be changed from Reno, Nevada to
12 Las Vegas, Nevada based upon NRS 13.050(2)(c), and/or if the hearing should be conducted through
13 videoconference between Reno, Nevada and Las Vegas, Nevada.

14 STANDARD FOR CHANGE OF VENUE

15 Commission Procedural Rule 18. Formal Hearing.

- 16 1. When the answer has been filed, a formal hearing shall be scheduled, if practicable,
17 within 60 days unless waived by both the Commission and the Respondent. The
18 Respondent and all counsel must be notified of the time and place of the hearing and
19 must first be consulted concerning the scheduling thereof to accommodate, where
20 possible, the schedules of the Respondent and counsel and those of their witnesses.
The proper venue for judicial hearings and proceedings shall be determined by the
Commission at its sole discretion.

21 ...

22 NRS 1.462. Proceedings before Commission; applicable rules

- 23 1. Proceedings before the Commission are civil matters designed to preserve an
24 independent and honorable judiciary.
25 2. Except as otherwise provided in NRS 1.425 to 1.4695, inclusive, or in the procedural
26 rules adopted by the Commission, after a formal statement of charges has been filed,
27 the Nevada Rules of Civil Procedure apply.

28 NRS § 1.462

¹ Only Judge Tobiasson testified at the hearing; however, one other witness was scheduled to testify and was in Reno, Nevada for the hearing.

1 18 states that respondent must be consulted regarding the scheduling of the hearing regarding date and
2 time only, and to accommodate, where possible. The consultation did occur regarding date and time,
3 and the location for the hearing was set in Reno, Nevada as per the Commission's authority in
4 Commission Rule 18.

5 Furthermore, Respondent's Motion to Change Venue is procedurally deficient as it lacks any
6 discussion regarding specific witness testimony in support of the change in venue. NRS 13.050(2)(c),
7 which provides a court with discretion to change venue "[w]hen the convenience of the witnesses and
8 the ends of justice would be promoted by the change." The Nevada Supreme Court has indicated that
9 venue may only be changed under NRS 13.050(2)(c) "under exceptional circumstances strongly
10 supporting another forum," and that "[a] motion for change of venue based on forum non conveniens
11 must be supported by affidavits so that the district court can assess whether there are any factors present
12 that would establish such exceptional circumstances." *Mountain View Recreation, Inc. v. Imperial*
13 *Commercial Cooking Equip. Co.*, 129 Nev. 413, 419, 305 P.3d 881, 885 (2013). In the absence of such
14 evidence as to why a venue change is warranted, the Supreme Court has concluded that a venue change
15 under NRS 13.050(2)(c) is improper. *Id.* at 420, 305 P.3d at 885.

16 In this instance, Respondent's affidavit addressed the costs to fly the five (5) witnesses to Reno
17 and the impact upon the court calendar of two sitting judges who are listed as witnesses. While the
18 Commission takes note of the impact upon trial calendars of the judges, the same impact occurs for two
19 of the judicial Commissioners in this action as well. The impact on the Eighth Judicial District Family
20 Court's docket for the day of trial is unavoidable if the witnesses testify, even if the trial were in Las
21 Vegas. Furthermore, it is not clear from the Motion or affidavit, if the witnesses' testimony is relevant
22 or duplicative. NRS 48.025 and NRS 48.035. The hearing at the center of the Formal Statement of
23 Charges was captured primarily on the Court's JAVS system, and thus the video and court documents,
24 in addition to Respondent's testimony, are relevant to the Commission hearing.

25 Moreover, general allegations regarding inconvenience or hardship are insufficient because "[a]
26 specific factual showing must be made." *Eaton v. Second Judicial Dist. Court*, 96 Nev. 773, 774-75,
27 616 P.2d 400, 401 (1980), *overruled on other grounds by Pan v. Eighth Judicial Dist. Court*, 120 Nev.
28 222, 228, 88 P.3d 840, 844 (2004). Respondent simply made general allegations that Respondent, her

1 staff and court staff witnesses are all based in Las Vegas, and it would be costly for Respondent to pay
2 for the travel of all witnesses and would inconvenience the Eighth Judicial District Court. However, the
3 trial is scheduled for one day and all of the witnesses can fly from Las Vegas to Reno on the day of
4 trial. This lessens the impact upon Respondent's costs and any inconvenience to the witnesses.
5 Moreover, Respondent cited to the Commission's budget noting that the Commission returned funds to
6 the State of Nevada. The budget of the Commission is far more complicated than pled, and making
7 travel arrangements for seven Commissioners, whose schedules must be accommodated, is extremely
8 problematic. Furthermore, fiscal concerns are permitted to be considered by the Commission in
9 scheduling hearings at the expense of taxpayer dollars. *See Matter of Halverson*, 123 Nev. 493, 517-
10 18, 169 P.3d 1161, 1178 (2007).

11 In order for venue to change based upon forum non convenience, exceptional circumstances
12 must be plead. *Mountain View Rec. v. Imperial Commercial*, 305 P.3d 881 (2013). In *Mountain View*,
13 allegations that holding trial in Pahrump, where the underlying incident occurred, would be
14 inconvenient to witnesses and parties because the majority of the litigation and discovery, including the
15 majority of depositions, took place in Las Vegas, and that physical evidence, the special master, and
16 the majority of counsel were located in Las Vegas, and that all experts located outside of Pahrump
17 would have to travel through Las Vegas to attend court proceedings in Pahrump, failed to establish the
18 existence of exceptional circumstances, thus the Nevada Supreme Court reversed the trial court's
19 decision to change venue from Nye County to Clark County. *See id.* The same general allegations
20 apply in this matter as the trial is a one day trial that will require only minimal travel by the witnesses
21 as all witnesses can fly to and from Reno in one day. Respondent provided a list of witnesses in her
22 affidavit, however without notice of what each witness will testify to, there are no factors present that
23 would establish exceptional circumstances as required in *Mountain View*. Respondent failed to plead
24 any exceptional circumstances that would merit a change in venue.

25 Therefore, Respondent's Motion for Change of Venue is hereby denied.

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1 **II. Electronic Testimony**

2 In the alternative, Respondent argues for the videoconferencing of the hearing. While the State’s
3 teleconference abilities between locations provides the persons present at each location with the ability
4 to hear and communicate with the persons present at each other location, the Commission does not have
5 to grant such a request. NRCP 43

6 Federal Rules of Civil Procedure Rule 43 permits for “good cause in compelling circumstances
7 and with appropriate safeguards, the court may permit testimony in open court by contemporaneous
8 transmission from a different location.” While such testimony may be permitted, the Federal Rules of
9 Civil Procedure, Rule 43, Advisory Committee’s Notes frown upon videoconferencing testimony
10 without good cause. The notes to the 1996 amendment to Rule 43(a) make it clear that transmission
11 cannot be justified by demonstrating that it is inconvenient for the witnesses to attend the trial. *See also*
12 *Sille v. Parball Corp.*, 2:07-CV-00901-KJD, 2011 WL 2680560, at 2 (D. Nev. July 8, 2011) The
13 Notes emphasize the importance of actual, live testimony by a witness who is present in the courtroom.
14 The Notes state that the “ceremony” of the courtroom and the actual “presence of the fact finder may
15 exert a powerful force for truth-telling.”

16 The Nevada Federal Court found that, “when the federal rule states a court may permit
17 contemporaneous transmission “for good cause in compelling circumstances” the rule really means “for
18 good cause in compelling circumstances.” *Niemeyer v. Ford Motor Co.*, 2:09-CV-2091 JCM PAL,
19 2012 WL 5199145, at 2 (D. Nev. Oct. 18, 2012). In *Niemeyer*, the court noted that video transmission
20 would “deprive jurors of the ability to make face-to-face determinations about Dr. Singer's testimony,
21 demeanor, mannerisms, and reactions to certain questions proffered by defendants.” *Id.* Additionally,
22 a blanket request for authorization for video testimony was ruled “problematic due to the fact it is
23 unclear at this juncture how many of those witnesses will actually be able to provide testimony relevant
24 to the issues in this case.” *Sille v. Parball Corp.*, 2:07-CV-00901-KJD, 2011 WL 2680560, at 2 (D.
25 Nev. July 8, 2011) Furthermore, in federal cases, monetary expenses fail the good cause test. *See*
26 *Vaughn v. Stevenson*, 2007 WL 460959, at 2-3 (D. Colo. 2007) (holding that the fact that producing a
27 witness will be expensive and time consuming does not demonstrate “good cause” much less
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1 "compelling circumstances" that would warrant deviation from the preferred practice of presenting live
2 testimony in the courtroom).

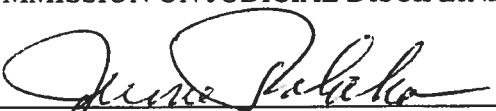
3 Respondent's "good cause" for a videoconference is monetary and/or for convenience of the
4 Respondent and witnesses. However, it is unclear if all witnesses listed will testify based upon
5 relevance or duplicity. Respondent's reasons for requesting testimony by video lacks any compelling
6 circumstances, and appears to be more of a threat that her hearing will impact the Eighth Judicial
7 District Family Court Division. Such a broad swipe at a change of venue request through a listing of
8 judges and court staff as witnesses without specificity as to testimony is not a relevant factor for a
9 change in venue. Moreover, minor monetary issues and inconvenience fail the good cause standard.

10 District courts have "inherent power to control the disposition of the causes on its docket with
11 economy of time and effort for itself, for counsel, and for litigants." *In re Stratosphere Corp. Sec.*
12 *Litig.*, 182 F.R.D. 614, 617 (D.Nev.1998). In this instance, the Commission controls the time, place and
13 forum of the hearing. Commission Rule 18. As the Commission sets its own procedures within the
14 confines of due process, the Commission likewise controls its own docket, and as such may deny the
15 motion for video conferencing, and based upon lack of good cause and lessened ability to observe the
16 demeanor of Respondent and witnesses, the Motion for Electronic Testimony is hereby denied.
17 However, any character evidence may be presented by letter, and thus there is no need for electronic
18 testimony.

19 Respondent's Motion for Change of Venue, or in the Alternative, for Electronic Testimony is
20 hereby denied. The Honorable Jerome Polaha is authorized to sign this order on behalf of the full
21 Commission.

22 DATED this 3^d day of April, 2018.

23 STATE OF NEVADA
24 COMMISSION ON JUDICIAL DISCIPLINE

25 
26 Jerome Polaha, Presiding Judge

27
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1 **CERTIFICATE OF SERVICE**

2 I hereby certify on this 6th day of April, 2018, I transmitted a copy of the foregoing ORDER
3 DENYING MOTION TO TRANSFER HEARING TO LAS VEGAS, NEVADA OR, IN THE
4 ALTERNATIVE, TO DO SAID HEARING BY VIDEO, via email and by placing said document in the
5 U.S. Mail, postage prepaid, addressed to:

6 William B. Terry, Esq.
7 William B. Terry, Chartered Attorney at Law
8 530 South Seventh Street
9 Las Vegas, NV 89101-6011
10 info@williamterrylaw.com

11 Thomas C. Bradley, Esq.
12 Sinai, Schroder, Mooney, Boetsch, Bradley & Pace
13 448 Hill Street
14 Reno, NV 89501
15 tom@stockmarketattorney.com

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Valerie Carter, Commission Clerk