

WILLIAM B. TERRY, CHARTERED
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1 WILLIAM B. TERRY, ESQ.
Nevada Bar No. 001028
2 ALEXANDRA ATHMANN-MARCOUX, ESQ.
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3 WILLIAM B. TERRY CHARTERED
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6 Attorney for Respondent

7
8 BEFORE THE NEVADA COMMISSION ON JUDICIAL DISCIPLINE

9 In the Matter of

10 THE HONORABLE KERRY EARLEY,
11 Eighth Judicial District Court,
County of Clark, State of Nevada

Case No. 2019-040-P

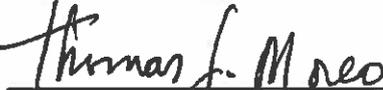
12 Respondent.
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14 **VERIFIED RESPONSE/ANSWER TO FORMAL STATEMENT OF CHARGES**

15 COMES NOW, the Respondent, KERRY EARLEY, Judge for the Eighth Judicial District
16 Court, by and through her counsel, WILLIAM B. TERRY, ESQ. and ALEXANDRA ATHMANN-
17 MARCOUX, ESQ., of the law offices of WILLIAM B. TERRY, CHARTERED along with THOMAS
18 J. MOREO, ESQ., acting for and on behalf of the Honorable Kerry Earley and files the instant response
19 and answer to the Formal Statement of Charges filed before the Nevada Commission on Judicial
20 Discipline.

21 Said Response/Answer is made and based upon the attached documentation.

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THOMAS J. MOREO, ESQ.
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10300 Wellside Hill Avenue
Las Vegas, Nevada 89145

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FACTUAL ALLEGATIONS

In responding to the Factual Allegations set forth in the Formal Statement of Charges, the Respondent, the Honorable Kerry Earley (hereinafter referred to as "Earley") states as follows:

In response to paragraph "A" of the complaint, Respondent had initially no knowledge of any "flyers" posted in reference to her husband's retirement. The JEA, Respondent admits, failed to read Respondent's electronic mails timely and Respondent was not advised of any issue. Respondent denies that she thereafter went to the Chief Judge's chambers and "screamed or yelled". Respondent further denies that she spoke to the JEA in a "loud offensive, abusive or demeaning manner and using profanity."

In answering paragraph B of the facts set forth within the complaint, Respondent states as follows:

Initially Respondent admits that she was on vacation when advised of the transfer of duties. Respondent further denies that she indicated that she would not take "all" civil cases and move to a new court room. Respondent further denies that when she spoke to the "new Chief Judge" she denies she was yelling.

In responding to the facts set forth in the paragraph C of the factual analysis filed by the Commission, Respondent states as follows:

Respondent admits that the JEA did open a confidential letter from the Nevada Judicial Commission addressed to the Respondent. Respondent denies that she spoke to the JEA in a "loud, offense, profane manner in the presence of others." Respondent further states that she did speak to the JEA in reference to the "magazines", the "paint color" and "carpet samples" and denies all other allegations set forth within this specific area of the factual recitation. Respondent further denies that she indicated that she "did not want to see the JEA's face and wanted her to leave..."

In responding to paragraph D of the factual analysis of the Commission, the Respondent states as follows:

Initially Respondent denies that she "inappropriately screamed, yelled or otherwise unnecessarily raised her voice at staff or other judges..." Respondent further denies that she was demeaning or

1 condescending. She further denies that she screamed at the JEA during a meeting with then Chief Judge
2 Barker and Judge Gonzalez. Respondent further denies that she became "...angry, yelled and swore at
3 her male law clerk". Respondent further denies that between 2015 and September of 2018 she "...
4 would unnecessarily raise her voice, scream at and verbally abuse her male law clerk and got upset and
5 would make negative comments about prior staff..." Respondent further indicates that she has no
6 knowledge of whether "staff of neighboring chambers on the 16th floor... and on the 12th floor...heard
7 her" and further denies that she was screaming, yelling and being verbally abusive toward Respondent's
8 staff. In responding to the portion dealing with what the neighboring staff may or may not have heard,
9 again, Respondent is without knowledge of this and as a result denies same. Respondent further denies
10 that she "verbally berated and yelled or screamed at her female law clerk from about early 2018 to
11 March of 2019..."

12 CHARGES OF MISCONDUCT

13 In reference to the Charges of Misconduct set forth in the Formal Statement of Charges,
14 Respondent states as follows:

15 In reference to the paragraph commencing at page 3 of the complaint under the heading of
16 Charges of Misconduct and continuing to page 4 of the complaint to line 3, Respondent states that she
17 denies that she violated Judicial Canons, Canon 1, Rule 1.1 (failing to comply with the law, including
18 the Code of Judicial Conduct, in not being patient, dignified and courteous and by harassing others).
19 Respondent further denies that she violated Code of Judicial Conduct Rule 1.2 (failing to act at all times
20 in a manner that promotes public confidence in the independence, integrity, and impartiality of the
21 judiciary and avoiding impropriety and the appearance of impropriety in not being patient, dignified and
22 courteous and by harassing others). Respondent further denies that she violated Code of Judicial
23 Conduct, Judicial Canon 2, Rule 2.3 (harassment) and Code of Judicial Conduct Rule 2.8(B) (failure
24 to be patient, dignified, and courteous to staff, court officials, and others with whom the judge deals in
25 any official capacity). Respondent further denies that she violated any single rule or combination of
26 these rules while Respondent was a District Court Judge for the Eighth Judicial District Court, Clark
27 County, Nevada.

1 In answering the individual counts, Respondent states as follows:

2 **Count One**

3 Respondent denies the allegations set forth in Count One and further states that no Rules of
4 Judicial Conduct were violated.

5 **Count Two**

6 Respondent denies the allegations set forth in Count Two and further states that none of the acts
7 set forth in Count Two violate the Rules of the Code of Judicial Conduct.

8 **Count Three**

9 Respondent denies the allegations set forth in Count Three and further states that she did not
10 violate any Canons or Rules of Professional Conduct or any rules set forth within the Code of Judicial
11 Conduct.

12 **Count Four**

13 Respondent denies the allegations set forth in Count Four and again states that none of her
14 actions violated any of the rules of the Code of Judicial Conduct.

15 **Count Five**

16 Respondent denies the allegations set forth in Count Five and further states that none of her
17 actions as asserted in Count Five violated any of the rules of the Code of Judicial Conduct.

18 **AFFIRMATIVE DEFENSES**

19 The complaint should be dismissed for a lack of specificity and the limitation of actions.

20 In Count One, Complainant fails to specifically allege how Respondent's course of conduct
21 violated each Canon alleged. Further, the facts as alleged even if true fail to state a violation of the
22 Canon alleged or grounds for discipline set forth in the Nevada Revised Statutes, and the allegations
23 and alleged violations set forth in the statement and in each count are vague and ambiguous.

24 In Count Two, Complainant fails to specifically allege how Respondent's course of conduct
25 violated each Canon alleged. Further, the facts as alleged even if true fail to state a violation of the
26 Canon alleged or grounds for discipline set forth in the Nevada Revised Statutes, and the allegations
27 and alleged violations set forth in the statement and in each count are vague and ambiguous.

28 In Count Three, Complainant fails to specifically allege how Respondent's course of conduct

1 violated each Canon alleged. Further, the facts as alleged even if true fail to state a violation of the
2 Canon alleged or grounds for discipline set forth in the Nevada Revised Statutes, and the allegations
3 and alleged violations set forth in the statement and in each count are vague and ambiguous.

4 In Count Four, Complainant fails to specifically allege how Respondent's course of conduct
5 violated each Canon alleged. Further, the facts as alleged even if true fail to state a violation of the
6 Canon alleged or grounds for discipline set forth in the Nevada Revised Statutes, and the allegations
7 and alleged violations set forth in the statement and in each count are vague and ambiguous.

8 In Count Five, Complainant fails to specifically allege how Respondent's course of conduct
9 violated each Canon alleged. Further, the facts as alleged even if true fail to state a violation of the
10 Canon alleged or grounds for discipline set forth in the Nevada Revised Statutes, and the allegations
11 and alleged violations set forth in the statement and in each count are vague and ambiguous.

12 **MITIGATING CIRCUMSTANCES**

13 Response submits that the following mitigating circumstances in addition to others that will be
14 presented at the time of the formal hearing exist in the instant case as follows:

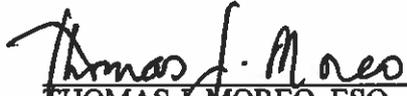
- 15 (1) Respondent has an absence of a prior disciplinary record;
- 16 (2) Respondent has an absence of a dishonest or selfish motive;
- 17 (3) Respondent had no personal or emotional problems;
- 18 (4) Respondent cooperated fully with the Commission;
- 19 (5) Respondent's character and reputation;
- 20 (6) That particularly in light of the allegation dating back to 2015, there has been an unreasonable
21 delay in the disciplinary proceedings;
- 22 (7) The imposition of other penalties or sanctions should be taken into consideration;
- 23 (8) That the allegations set forth within the complaint are remote; and

1 (9) That as a lawyer prior to becoming a judge the Respondent was never subject to any forms of
2 discipline;

3 DATED this 14th day of September, 2020.

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VERIFICATION

STATE OF NEVADA }
COUNTY OF CLARK } SS.

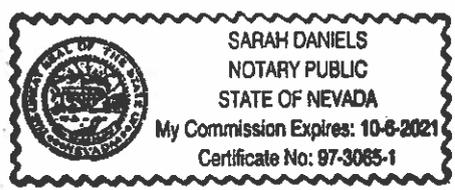
KERRY EARLEY, being first duly sworn, deposes and says:

That she is the Respondent in the above-entitled action; that she has read the foregoing Verified Response and Answer and knows the contents thereof; that the same is true of her own knowledge except for those matters therein contained stated upon information and belief; and as to those matters, she believes them to be true.

Kerry Earley
KERRY EARLEY

SUBSCRIBED and SWORN to before me this 14th day of September, 2020.

Sarah Daniels
NOTARY PUBLIC in and for said County and State



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CERTIFICATE OF SERVICE

I hereby certify that on the 14th day of September, 2020, I, as an employee of WILLIAM B. TERRY, CHARTERED, caused to be served via email and by first class mail, a copy of the foregoing **VERIFIED RESPONSE/ANSWER TO FORMAL STATEMENT OF CHARGES** with postage fully prepaid thereon, by depositing the same with the U.S. Postal Service, addressed as follows:

Brian Hutchins, Esq.
BH Consulting, LLC
P.O. Box 2366
Carson City, Nevada 89702
bhconsultingllc@sbcglobal.net
Prosecuting Officer


As an employee of William B. Terry ,Chartered