

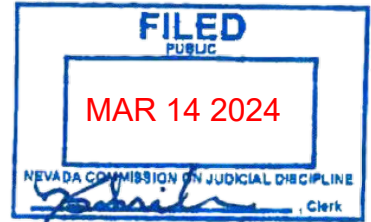
1 **BEFORE THE NEVADA COMMISSION ON JUDICIAL DISCIPLINE**

2 **STATE OF NEVADA**

3 In the Matter of)

4 THE HONORABLE ERIKA BALLOU,)
District Court Judge, Eighth Judicial District)
Court, County of Clark, State of Nevada,)

6 Respondent.)
7)
8)



CASE NO. 2022-173-P

8 **PREHEARING ORDER**

9 TO: THE HONORABLE ERIKA BALLOU, Respondent
10 TOM PITARO, ESQ., Counsel for Respondent
FRANCIS C. FLAHERTY, ESQ., Special Counsel

11 The purpose of the hearing will be to determine whether, pursuant to NRS 1.4673, there is clear
12 and convincing evidence to show that Respondent violated the Revised Nevada Code of Judicial
13 Conduct, as is alleged in the Formal Statement of Charges filed by Special Counsel Francis "Frank" C.
14 Flaherty, Esq. on or about January 24, 2024, and whether discipline is appropriate.

15 Within ten (10) days after service of this Prehearing Order, the Parties shall exchange certain
16 material and information as set forth in Commission Procedural Rule 19.

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

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

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

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

1 Not less than fifteen (15) days before the hearing, the Parties shall file all pre-trial motions,
2 including motions in limine to exclude or admit evidence.¹ No reply shall be permitted if such motions
3 are filed within twenty-one (21) days before the hearing.

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

6 The prehearing briefs shall include:

- 7 a. A brief statement of relevant facts, including any admitted or undisputed facts,
8 not to exceed one (1) page.
- 9 b. A concise statement, not to exceed two (2) pages, of the Party's allegations or
10 defenses and the facts supporting the same. Such allegations, defenses and facts
11 shall be organized by listing each essential element of the allegation or defense
12 and stating the facts in support of each such element as they relate to the Formal
13 Statement of Charges.
- 14 c. A statement of any issues of law, not to exceed two (2) pages, supported by
15 authorities with a brief summary of the relevant rule and without additional
16 argument. The Parties should emphasize any Commission opinions deemed
17 relevant and applicable.
- 18 d. The names of each witness, except impeaching witnesses, the Party expects to
19 call; a clear statement of the expected testimony of each witness and its
20 relevance; and an estimate of the time the Party will require for the testimony of
21 each witness. To the extent possible, provide an estimate of time for cross-
22 examination of the opposing Party's witnesses.
- 23 e. A list of the exhibits expected to be identified and introduced at the hearing for
24 the purpose of developing the evidentiary record and a concise statement of the
25 relevancy to the allegations, defenses and facts as stated in the statement
26 required under paragraph (b) above for each exhibit.
- 27 f. A concise statement of any stipulations regarding the admissibility of an exhibit
28 or expected testimony of any witness offered by the opposing Party.
- g. A brief summary of any pre-hearing procedural or substantive motions, not to
exceed one (1) paragraph. Except for any procedural or substantive motions that
arise during the hearing, all pre-hearing procedural and substantive motions
must be submitted in accordance with this Prehearing Order.
- h. Any other appropriate comments, suggestions or information which may assist
the Commission in the disposition of the case, not to exceed one (1) page.

¹ Pursuant to Commission Public Case Filing Procedures set forth in Exhibit "A" to the Commission's Procedural Rules, Procedure 1(B) mandates that service of all papers shall be by electronic means ("email"). Furthermore, Commission Procedural Rule 37 states that all time limitations shall be computed as in the Nevada Rules of Civil Procedure except that three (3) days shall not be added to the prescribed period for any notice or paper served by electronic means.

1 Not less than fourteen (14) days before the hearing, the Parties shall electronically submit to the
2 Commission their exhibit book(s), consisting of the exhibits, if any, expected to be identified and
3 introduced as evidence at the hearing. The exhibit book(s) must include an index of the exhibits and be
4 Bates numbered. Additionally, five (5) bound hardcopies of the exhibit books must be submitted to the
5 Commission on Judicial Discipline. Each Party is responsible for providing the court reporter with an
6 unbound set of Bates numbered exhibits. The Parties shall exchange exhibit books in both electronic
7 and hardcopy format, unless otherwise agreed upon.

8 a) The Special Counsel's exhibit book(s) must be tabbed and identified by numbers.

9 b) The Respondent's exhibit book(s) must be tabbed and identified by letters.

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

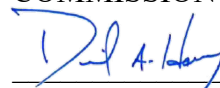
15 The Parties shall electronically file and serve all documents not later than 5:00 p.m. on the
16 respective dates outlined herein to the Office of the Commission on Judicial Discipline at
17 ncjdinfo@judicial.nv.gov, and upon the opposing Party.

18 The Honorable David Hardy is authorized to sign this order on behalf of the full Commission.

19 IT IS SO ORDERED.

20 DATED this 14th day of March, 2024.

21 STATE OF NEVADA
22 COMMISSION ON JUDICIAL DISCIPLINE

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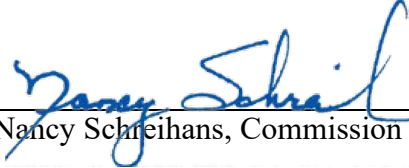
24 Honorable David Hardy, Commissioner
25 Presiding Officer
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CERTIFICATE OF SERVICE

I hereby certify on this 14th day of March, 2024, I transmitted a copy of the foregoing PREHEARING ORDER, via email and by placing said document in the U.S. Mail, postage prepaid, addressed to:

Tom Pitaro, Esq.
Attorney at Law
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Las Vegas, NV 89101
pitara@gmail.com

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FFlaherty@dyerlawrence.com



Nancy Schreihans, Commission Clerk