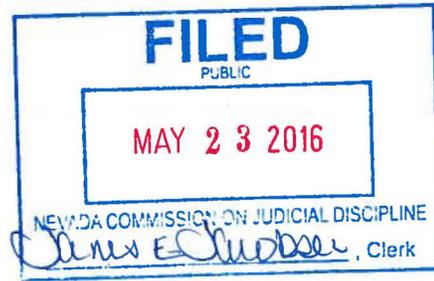


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6
7 **BEFORE THE NEVADA COMMISSION ON JUDICIAL DISCIPLINE**

8 **STATE OF NEVADA**

9
10 IN THE MATTER OF THE HONORABLE)
11 ANN E. ZIMMERMAN, Las Vegas township)
Justice of the Peace, County of Clark,)
12 State of Nevada,)
13)
Respondent.)
14 _____)

Case No. 1503-922

**RESPONDENT'S MOTION TO
DISMISS FORMAL CHARGES
AND JUDICIAL COMPLAINT**

15 The Respondent, Ann E. Zimmerman, by and through her attorney Daniel J. Albregts,
16 Esq., hereby moves the Commission to dismiss the formal statement of charges and complaint on
17 file herein. This motion is based upon Nevada Revised Statute Section 1.4655(2), the attached
18 Memorandum of Points and Authorities, the papers and pleadings on file in this matter herein,
19 and any argument should the Commission determine argument is necessary for the resolution of
20 this motion.

21 Dated this 17th day of May, 2016.

22 DANIEL J. ALBREGTS, LTD.

23
24 by: 
25 Daniel J. Albregts, Esq.
Nevada Bar No. 004435
26 601 S. 10th Street, Suite 202
27 Las Vegas, NV 89101
28 Attorney for Respondent

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MEMORANDUM OF POINTS AND AUTHORITIES

The facts relevant to the Motion to Dismiss are simple. On September 19, 2013 a complaint was filed by DM Dutcher with the Nevada Commission on Judicial Discipline. (See Exhibit A) The Complaint alleged judicial misconduct which supposedly occurred on or about November 29, 2010 and continued until on or about December 14, 2010. (See Complaint and Formal Charges). Nearly two and one-half (2 ½) years earlier, on December 22, 2010 Dutcher sent a letter to Judge Zimmerman complaining of her actions between that timeframe which form the basis for the complaint and formal statement of charges. (See Exhibit B) Clearly, this letter displays that Dutcher was on notice of the allegations he later complained about to the Judicial Commission, including the fact that the bench warrant had been recalled by Judge Zimmerman at the December 14, 2010 *ex parte* hearing. Thus, despite being on notice of the allegations Dutcher later complains about, he failed to take action with the Nevada Commission on Judicial Discipline until over two and one-half (2 ½) years later.

N.R.S. § 1.4655(2) states:

The Commission **shall not** consider complaints arising from acts or omissions that occurred more than 3 years before the date of the complaint **or more than 1 year after the complainant knew or in the exercise of reasonable diligence should have known of the conduct**, whichever is earlier. (Emphasis Added)

Mr. Dutcher's complaint to the Nevada Commission on Judicial Discipline should be dismissed because it is barred by Nev. Rev. Stat. § 1.4655(2). Mr. Dutcher filed his complaint with the Nevada Commission on Judicial Discipline on September 19, 2013 (See Exhibit A), which is nearly two and one-half (2 ½) years after he had written a letter (See Exhibit B) to Judge Zimmerman showing that Mr. Dutcher was aware of the alleged conduct, that is, the fact that the bench warrant had been recalled by the judge. There is no question Dutcher knew of the conduct in December, 2010. The Statute clearly states that the Commission cannot consider Mr.

1 Dutcher's complaint of the Court's conduct because Mr. Dutcher's complaint was filed two years
2 and ten months too late. It is therefore barred by the Statute of Limitations set forth in NRS
3 §1.4655(2).

4 The Nevada Supreme Court has stated the Statute of Limitations barring an action when
5 it has passed the specified period of time is to, "protect defendants from the unfairness of
6 prosecution when evidence is stale and witnesses are unavailable." Houtz v. State, 111 Nev.
7 457, 461 (1995). The instant matter falls squarely within the reasoning behind statutes that bar
8 action. The Honorable Judge Zimmerman has consistently maintained throughout the
9 investigation and litigation of this matter that she had no independent recollection of the event
10 that is the subject of the complaint as a result of the passing of time since the events occurred.
11 This is exactly why the statute has a time limitation on the filing of such complaints. This time
12 limitation must be enforced with dismissal of this action.

13 **CONCLUSION**

14 For the foregoing reasons, the Honorable Judge Ann Zimmerman respectfully requests
15 that the Commission dismiss the Formal Statement of Charges and the Complaint because it was
16 filed outside of the statute of limitations and is therefore time barred.

17 Dated this 17th day of May, 2016.

18 DANIEL J. ALBREGTS, LTD.

19 by: 

20 Daniel J. Albregts, Esq.
21 Nevada Bar No. 004435
22 601 S. 10th Street, Suite 202
23 Las Vegas, NV 89101
24 Attorney for Respondent
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EXHIBIT A

EXHIBIT A



COMMISSION CASE NO. 2013-137
(For Commission Use Only)

NEVADA COMMISSION ON JUDICIAL DISCIPLINE

VERIFIED STATEMENT OF COMPLAINT

(Please Clearly Type Or Print All Required Information)

RECEIVED
SEP 25 2013
NEVADA
JUDICIAL

Part I: General Information

Date of This Form: September 19, 2013
Name of Person Completing This Form: Douglas M. Dutcher
Mailing Address of Person Completing This Form: 2118 Wilshire Blvd #208
Santa Monica, CA 90403
Daytime Telephone Number To Contact You: (702) 591-2799

Part II: Specific Information Regarding Complaint

Name of Nevada Judicial Officer (Only One Name Per Complaint Form): Ann Zimmerman
Name of Court or Judicial District Involved: Las Vegas Justice Court
Case Number (Please Include All Letters and Numbers): 08A002075
This Case Is (Select One): Pending In Trial Court ^(went to judgment) On Appeal Not Pending or Closed
Nature of Complaint (Select One): I Have Attached My Own Explanation Page(s) - ^{already received by} I Have Used The Standard Complaint Supplementary Form you
Code of Judicial Conduct Section(s) Violated, If Known [(Example: Canon 3B(4))]: ?

Part III: Obligations Of Complainant

I hereby acknowledge the following agreements and/or waivers:

Consent To Investigate. I expressly authorize the Commission, staff and contractors, to investigate my complaint and take any and all actions, including interviewing any relevant witness or request by subpoena or otherwise of documentary evidence and to verify the statements I have made herein to be true and correct (or if stated to be on information and belief, that the statements are believed in good faith to be true and correct). I agree to promptly supplement and amend this complaint if I learn that the facts I have alleged are materially incorrect. I understand that deliberately misstating the truth of any material fact could subject me to various sanctions including, but not limited to, dismissal of my complaint, contempt or a separate action for perjury.

Full Cooperation. I agree to fully cooperate with the Commission, staff and its designated contractors with regard to my complaint. I understand that even if I wish to withdraw my complaint that the Commission retains independent grounds to pursue it and that the information contained within and attached to the complaint becomes the property of the Commission and the Commission may pursue the complaint even if I seek to withdraw it.

9/3/13

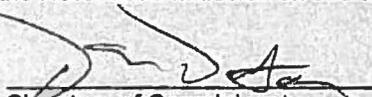
Part III Obligations Of Complainant (Con't)

Appeal Warning. I understand that the Commission, its staff and contractors are not an appellate court and that my filing of a complaint does not stay or stop any time I am provided to appeal a decision I disagree with or any decision that adversely affects me. I understand that I must timely file an appeal to preserve those rights. I acknowledge that filing a complaint with the Commission does not and cannot preserve those rights.

Legal Advice. I understand that the Commission, its Commissioners, Commission staff, investigators and contractors are precluded from giving me legal advice regarding my case or actions I should be taking in my case and I understand that should I require advice I will seek appropriate assistance apart from the Commission, its Commissioners, Commission staff, investigators and contractors.

Part IV: Signature and Verification of Complaint

After being duly sworn, I state under penalty of perjury that I am the above-referenced complainant whose name appears in Part I and who submitted this complaint; I know the contents thereof, and the matters set forth in this complaint are true and correct of my own knowledge, except as to matters stated to be on information and belief, and as to those matters are believed to be true and correct by me. I request that the conduct set forth above or referenced in the attachments and exhibits provided with the complaint be investigated by the Nevada Commission on Judicial Discipline.


Signature of Complainant

9-19-13
Dated

How Do I Submit My Complaint? Where Can I Obtain Additional Assistance? This complaint, along with any supporting materials you may wish to submit, should be sent by mail to the: **Nevada Commission on Judicial Discipline, P.O. Box 48, Carson City, Nevada 89702.** If you have questions regarding the completion of this form, please contact the Commission on Judicial Discipline at (775) 687-4017. In addition, if you have access to the Internet, or can obtain access at a local library or other Internet facility, the Commission's web site located at www.judicial.state.nv.us provides additional information to help you prepare your complaint. The web site also includes the full and current text of the Nevada Code of Judicial Conduct and other laws, statutes and rules governing the Commission.

STANDARD COMPLAINT SUPPLEMENTARY FORM (STATEMENT OF FACTS)

The following is my explanation as to why the judicial officer named in this complaint has violated the Nevada Code of Judicial Conduct ~~or suffers from a disability.~~

I am [select one]: one of the litigants [] a witness or interested party [] a member of the general public who witnessed or viewed this conduct (but not otherwise involved).

The judge did the following things that I believe constitute misconduct (please be as specific as possible about the event or action and attach additional pages, if required)

Knowingly allowed proceedings to be conducted after being advised that I (plaintiff & judgment creditor) was not present, and was not present because defendant had not notified me in any way that a hearing would take place (with adverse results likely to flow against me).

I feel that what the judicial officer should have done is the following (for misconduct complaints only):

Not conduct the hearing and required the opposing party to properly notice the hearing to all parties.

I have [select one]: [] appealed the judge's decision [] not appealed the decision
 have not decided yet [] not applicable

(Additional certified copies
and more already in your office)

EXHIBIT B

EXHIBIT B

08A002075
CCORR
Correspondence
1121670



December 22, 2010

Honorable Ann Zimmerman
Presiding Judge
Justice Court, Las Vegas, Nevada

RE: 08-A-2075, Warrant of Arrest
Steven L. Johns, Pres & CEO
eGIX, Inc., of Carmel Indiana

DEC 22 5 57 AM '10
By LAE

By FAX only, with copy to Calvin D. Buford, Esq,
Jack Cassidy, CEO Cincinnati Bell, & Richard Skolnick, Esq

Dear Judge Zimmerman:

Pursuant to a phone call I placed to your clerk Sharon yesterday, I am writing to you again regarding the case on which I appeared before you on January 14, 2010. The clerk advised that on December 14, 2010 a lawyer named "Warren Freeman" appeared on this case, that this lawyer admitted that he had failed to notify me of the appearance, and that (incredibly) his reward for this unethical conduct was for The Court to remove the bench warrant for his client's arrest.

The Court may recall that in April of 2010, another lawyer for the defendants, Thomas Dakich, pulled a similar stunt by attempting to have the warrant withdrawn, and the Court summarily denied that underhanded and unethical request. Now, for the Second time in eight months, a different lawyer for the defendant has gone behind my back, and against all basic laws requiring notification of the opposing party of any motion to the Court on this case without giving me notice.

First, I will send a copy of this letter to the Nevada State Bar in the form of a complaint against this lawyer. Second, I am by this letter requesting that the Court set a noticed hearing for my motion to reinstate the bench warrant, by giving both sides of this case a fair notice of what is going on. By the way, I would send a copy of this communication to "Mr. Freeman", but telephone information advised there is no listing for him when I inquired.

CERTIFICATION
The document to which this certificate is attached is a full, true and correct copy of the original on file and of record in Justice Court of Las Vegas Township, in and for the County of Clark, State of Nevada.

By [Signature] Deputy
Date 12/22/10

