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8 *Attorney for ERIKA BALLOU, District Court Judge*

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11 **BEFORE THE NEVADA COMMISSION ON**
12 **JUDICIAL DISCIPLINE**
13 **STATE OF NEVADA**

14 IN THE MATTER OF THE HONORABLE,
15 ERIKA BALLOU, District Court Judge,
16 Eighth Judicial District Court, Clark County,
17 State of Nevada,

Case No.: 2022-173-P

Respondent.

RESPONDENT'S VERIFIED ANSWER

18 COMES NOW, the Respondent, the Honorable Erika Ballou, by and through her
19 attorney, Thomas F. Pitaro, Esq. of the firm Pitaro and Fumo, Chtd., and pursuant to Nevada
20 Commission on Judicial Discipline Rule 17 submits her Verified Answer to the Complaint,
21 including denials, affirmative defenses and mitigating factors, as follows:

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1 **Denials**

2 **Factual Allegations**

3 Deny the facts in Paragraph A of the Factual Allegations of the Complaint are an
4 inappropriate statement about her judicial duties.
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6 Deny the facts in Paragraph B of the Factual Allegations of the Complaint are an
7 inappropriate statement on social media.
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8 **Count One**

9 1) Deny the conduct described in Paragraph A of the Complaint violated Canon 1,
10 Rule 1.1 of the Revised Nevada Code of Judicial Conduct.
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12 2) Deny the conduct described in Paragraph A of the Complaint violated Canon 1,
13 Rule 1.2 of the Revised Nevada Code of Judicial Conduct.

14 3) Deny the conduct described in Paragraph A of the Complaint violated Canon 2,
15 Rule 2.1 of the Revised Nevada Code of Judicial Conduct.
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17 4) Deny the conduct described in Paragraph A of the Complaint violated Canon 3,
18 Rule 3.1(c) of the Revised Nevada Code of Judicial Conduct.

19 **Count Two**

20 1) Deny the conduct described in Paragraph B of the Complaint violated Canon 1,
21 Rule 1.1 of the Revised Nevada Code of Judicial Conduct.
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23 2) Deny the conduct described in Paragraph B of the Complaint violated Canon 1,
24 Rule 1.2 of the Revised Nevada Code of Judicial Conduct.

25 3) Deny the conduct described in Paragraph B of the Complaint violated Canon 2,
26 Rule 2.1 of the Revised Nevada Code of Judicial Conduct.
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28 4) Deny the conduct described in Paragraph B of the Complaint violated Canon 3,
Rule 3.1(c) of the Revised Nevada Code of Judicial Conduct.

Affirmative Defenses and Mitigating Factors

1) The conduct complained of the Counts One and Two is protected speech under the First Amendment to the U.S. Constitution and Article One, Section Nine of the Nevada State Constitution.

2) The conduct complained of the Count Two is protected "freedom of association" under the First Amendment to the U.S. Constitution and Article One, Section Ten of the Nevada State Constitution.

3) Respondent's social media pages are private and not open to the public.

4) The social media pages did not publicly identify the owner as Respondent or as a judicial officer.

5) The social media pages used a fictitious name to protect Respondent's identity.

6) The manner and means by which the anonymous individual(s) or organization(s) obtained and possessed Respondent's private social media pages and gave them to the chief judge has not been disclosed.

7) The judicial discipline complaint improperly put into the public domain Respondent's private social media identity to the actual and/or potential detriment of Respondent's safety and welfare.

8) The only public dissemination of the social media posts has been by the filing of the judicial complaint almost 2 1/2 years after the event in Count One and 1 year and 9 months after the event in Count Two.

9) The social media post referenced in Count One was meant as a private joke to a small group of friends late at night. Respondent did not continue the court calendar the next day.

10) Count Two of the judicial discipline complaint improperly identified by, picture, occupation and name, innocent third parties to the actual and/or potential detriment of their safety and welfare.

11) The picture and/or comment referenced in Count Two, taken during a wedding celebration, do not convey any rational or reasonable impression that the 2 public defenders can "influence" the Respondent in her judicial duties.

12) After the May 2022 conference with the chief judge Respondent took appropriate steps to limit her social media exposure by limiting the number of people (friends) on her private pages as well as withdrawing from all law related groups.

13) Respondent has not had any prior disciplinary complaints against her sustained.

WHEREFORE, Respondent prays that Petitioner takes away nothing by virtue of its Complaint and that the Judgment be entered in favor of Respondent.


That the identification of Respondent's private social media pages and applications be redacted.

That that names, occupation and faces of the third parties identified in Count Two be redacted.

DATED this 5th day of March, 2024.

PITARO & FUMO, CHTD.

By:


THOMAS F. PITARO, ESQ.
Nevada State Bar No. 1332

VERIFICATION

I, ERIKA BALLOU, being fully sworn, deposes and says:

I am the Respondent in the above-entitled action, that I have read the foregoing
RESPONDENT'S VERIFIED ANSWER and know the contents thereof; that the same is true of
my own knowledge, except for those matters contained therein which are stated upon
information and belief, and as to those matters, I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct.

DATED this 6th day of March 2024.



ERIKA BALLOU
DISTRICT COURT JUDGE

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