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8
9 **BEFORE THE NEVADA COMMISSION ON JUDICIAL DISCIPLINE**

10 **STATE OF NEVADA**

11 IN THE MATTER OF THE HONORABLE,
MICHELE FIORE, Justice of the Peace,
12 Pahrump Township Justice Court, Nye
County, State of Nevada,

Case No.: 2025-108-P

13 Respondent.
14

15 **OPPOSITION TO RESPONDENT'S AMENDED MOTION TO DISMISS**

16 COMES NOW Thomas J. Donaldson, Special Counsel for the Nevada Commission on
17 Judicial Discipline ("Commission" or "NCJD"), and hereby opposes Respondent's Amended Motion
18 to Dismiss for Violation of Due Process ("Motion") filed herein on September 30, 2026.¹ The
19 instant opposition is made pursuant to Nevada Rule of Civil Procedure ("NRCP") 12(b) and
20 Procedural Rule of the Judicial Discipline Commission ("PRJDC") 38.2(A) and based upon the
21 following memorandum of points and authorities and the pleadings and papers on file herein.

22 **Memorandum of Points and Authorities**

23 On the eve of her upcoming hearing starting on October 19, 2026, Respondent has filed her
24 **third motion to dismiss** in this matter. Many of the claims made therein have already been resolved

25
26 ¹ As the Commission is aware, Respondent filed a 16-page Motion to Dismiss for
27 Violation of Due Process on September 29, 2026, in violation of the Commission's Prehearing Order
28 limiting motions to fifteen (15) pages. Special Counsel filed a Motion to Strike the fugitive Motion
on September 30, 2026. Respondent reformatted the title page of her original Motion, which
reduced the Motion to fifteen (15) pages and re-filed it as the instant (amended) Motion. Respondent
is prohibited from filing a reply to the instant Opposition due to the untimeliness of her Motion.
Prehearing Order, p. 2 at lines 3-4.

1 by the Commission and the Nevada Supreme Court. *See* July 31, 2026, NCJD Order Denying
2 Motion to Dismiss and Granting Leave to Amend Formal Statement of Charges (Motion, Exhibit
3 (“Ex.”) 26) and April 10, 2026, Supreme Court Order Dismissing Appeal, Denying Petition, and
4 Affirming Interim Suspension, attached hereto as Exhibit (“Ex.”) 1.²

5 The essence of her argument in this frivolous motion is that, by following the very process
6 set out in the Nevada Constitution, NRS 1.4653 - 1.4695, inclusive, and its own PRJDC, the
7 Commission has violated Respondent’s rights to due process guaranteed by the 14h Amendment to
8 the United States Constitution and Article 1, Section 8 of the Nevada Constitution. Thus,
9 Respondent’s Motion should be denied (once again).

10 I. Standard of Law

11 Once a formal statement of charges has been filed, proceedings in the NCJD are governed
12 by the NRCP. NRS 1.462. Although Respondent makes no effort to clarify which NRCP her
13 motion to dismiss is based, NRCP 12(b)(5) appears the most on point. NRCP 12(b)(5) permits a
14 party to file a motion to dismiss for failure to state a claim upon which relief may be granted. An
15 NRCP 12 (b)(5) motion to dismiss is subject to a rigorous standard of review. *Buzz Stew, LLC v.*
16 *City of North Las Vegas*, 124 Nev. 224, 227-8, 181 P.3d 671, 672 (2008). A complaint will be
17 dismissed only if it appears beyond doubt that the plaintiff can prove no set of facts which, if true,
18 would entitle it to relief. *Id.* “[S]tatutes are presumed to be valid, and the challenger bears the
19 burden of showing that a statute is unconstitutional.” *Taylor v. Colon*, 136 Nev. 434, 436, 482 P.3d
20 1212, 1215 (2020).

21 The Nevada Constitution charges the Commission with the responsibility to investigate,
22 prosecute, and adjudicate allegations of judicial misconduct. It requires the Nevada Legislature to
23 establish the grounds for disciplinary actions, the standards for investigations and the confidentiality
24

25 ² In the July 31, 2026, NCJD Order, the Commission held that the FSOC satisfies the
26 minimum due process requirements. Further, in the Order dated April 10, 2026, the Nevada
27 Supreme Court found that the Commission had jurisdiction and did not abuse its discretion because
28 its Order Suspending Respondent with Pay the Commission followed *Matter of Halverson*, 123 Nev.
493, 169 P.3d 1161 (2007). The Commission has not yet ruled on Respondent’s Motion to Dismiss
Count 1 of hte First Amended Formal Statement of Charges dated September 4, 2026.

1 of its proceedings, and it requires the Commission to adopt rules of procedure for the conduct of its
2 hearings and any other procedural rules it deemed necessary to carry out its duties. Nev. Const. Art.
3 6 § 21; *see also Mosley v. Comm'n on Judicial Discipline*, 117 Nev. 371, 374 n.1, 22 P.3d 655, 658
4 n.1 (2001).

5 In *Mosley*, the Nevada Supreme Court has already held that the Commission's combination
6 of prosecutorial, investigative and adjudicative functions, described above, **does not violate due**
7 **process** by its own terms. *Id.* at 380, 22 P.3d at 660. Specifically, the *Mosley* court held that this
8 combination of functions is not implicitly prejudicial to judges brought within the disciplinary
9 process, and that the Commission's procedures therefore do not, by themselves, violate
10 commissioned state judges' protected due process property or liberty interests in their judicial
11 offices. *Id.* at 379-80, 22 P.3d at 660-61. Further, the *Mosley* Court laid out a two step process for
12 any respondent to show that, as applied to him or her, the combination of the functions posed a risk
13 of actual bias. First, a respondent must overcome a presumption that the adjudicators are honest.
14 Second, he or she must demonstrate that "under a realistic appraisal of psychological tendencies and
15 human weakness, conferring investigative and adjudicative powers on the same individuals poses
16 such a risk of actual bias or prejudgment that the practice must be forbidden if the guarantee of due
17 process is to be adequately implemented." *Id.* at 381; 22 P.3d at 661 (*citing Withrow v. Larkin*, 421
18 U.S. 35, 47, 95 S. Ct. 1456, 1464 (1975)). Additionally, "the essence of due process" in judicial
19 discipline proceedings is "the opportunity to be heard 'at a meaningful time in a meaningful
20 manner.'" *Matter of Halverson*, 123 Nev. 493, 518, 169 P.3d 1161, 1178 (2007) (*quoting Mathews*
21 *v. Eldridge*, 424 U.S. 319, 333, 96 S. Ct. 893, 902 (1976)). The Commission's actions in regards
22 to Respondent have, each of them, been taken pursuant to the above referenced statutes and rules and
23 without bias, providing Respondent ample opportunity to be heard. Respondent has not met her
24 burden under *Mosley* or *Halverson*.

25 II. Analysis

26 Respondent does not even attempt to address the presumption that the Commission members
27 are honest. There is not a single mention that an adjudicator of the Commission is dishonest, biased

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1 or lacks integrity in any manner.³ Neither does Respondent attempt to make a “realistic appraisal
2 of psychological tendencies and human weaknesses” to show that these adjudicators have actual bias
3 or have prejudged the matter. She merely cites to *Mosley*,⁴ and summarily concludes that, unlike
4 Mosley’s “generalized allegations,” she has provided direct evidence of a dishonest, biased, or
5 prejudicial manner, Motion at 9:12-19. However, what she points to is merely the NCJD process
6 that is authorized by NRS and the PRJDC that the Commission is required to follow.

7 **A. The May 5, 2025 Notice of Intent to Suspend and the Hearing on Suspension**

8 The Commission has discretionary authority to suspend a judge “with salary *pending a final*
9 *disposition of the complaint* if the Commission determines, by a preponderance of the evidence, that
10 the judge poses a substantial threat of serious harm to the public or to the administration of justice.”
11 NRS 1.4675(4) (emphasis added). A Verified Statement of Complaint (“VSC”) was issued on May
12 2, 2025, along with the issuance of the Notice of Intent to Suspend (“Notice”). Thus, final
13 disposition of a complaint was pending at the time suspension was considered.⁵ See Motion, Ex. 23.
14 The Commission shall provide seven (7) days’ notice of its intention to suspend at the time the
15 Notice was issued, give the judge an opportunity to respond and hold a public hearing unless the
16

17 ³ Respondent filed an untimely Motion to Disqualify certain Commission members
18 dated August 31, 2026, which was granted by the Commission in its Order dated October 6, 2026.
19 However, all three (3) Commissioners subsequently filed Answers Denying Bias dated
October 7, 2026.

20 ⁴ Respondent also provides a summary of United States Supreme Court authorities on
21 the subject of a fair tribunal being a requirement of due process, Motion at 7, some of which are
22 relied upon in *Mosley*, but which are not further illustrative given the on-point analysis and holding
in *Mosley*.

23 ⁵ Contrary to Respondent’s insinuation throughout her Motion there is nothing procedurally
24 inappropriate much less suspicious about the fact that the Verified Statement of Complaint was filed
25 on the same day as the Notice of Intent to Suspend, *see e.g.* Motion at 3-5; 8:22. The type of
26 suspension referenced in the Notice was a discretionary suspension while a matter is pending, *see*
27 NRS 1.4675(4). There is nothing that prohibits seeking the NRS 1.4675(4) suspension immediately
28 upon the filing of a Complaint. In fact, one could argue that it is mandatory due to the basis for the
suspension being “the judge pos[ing] a substantial threat of serious harm to the public or to the
administration of justice.” *See also* Nev. Const. Art. 6 §21(9)(Commission in its discretion may
suspend a justice or judge from the exercise of his office pending the determination of the
proceedings before the Commission).

1 judge waives that right. NRS 1.4675(5). PRJDC 9.2 provides that the judge may respond in writing
2 or in person at the public hearing. There are no further requirements as to the specificity of the
3 Notice. Therefore, the Commission's Notice of Intent to Suspend Judge Fiore With Salary was
4 appropriate because it noticed a hearing date and stated that it would "consider the possible
5 suspension of Respondent from the exercise of judicial office, with salary pursuant to NRS
6 1.4675(4)." *See* Motion, Ex. 18. Further, it specifically stated that it would be considering "whether
7 Respondent poses a substantial threat of serious harm to the public or to the administration of justice,
8 based upon *United States v. Michele Fiore* (2:24-cr-155)." *Id.* It did not pre-judge that this would
9 happen; it gave notice of a hearing to consider this question. Moreover, as Respondent
10 acknowledges, *see* Motion at 4:11-16, the Commission provided Respondent with a list of exhibits
11 it would review, "including materials from the criminal case such as trial transcripts, and
12 approximately seven (7) 'Emails Regarding Judge Fiore Received from the Public'" and "[i]n its
13 Notice, the Commission acknowledged that it had received approximately 182 references in support
14 of Judge Fiore." Respondent also acknowledges that a public hearing was held at which Respondent
15 was provided opportunity to present her case without any time limitation and at which counsel
16 requested that the letters and emails presented in support of Respondent be entered and considered.
17 *Id.* at 4:17 - 5:4. As to the Notice and the Hearing on the Notice, Respondent has failed to meet her
18 burden under *Mosley and Halverson*.

19 **B. The Commission's Order Suspending Respondent With Pay**

20 After the Commission heard Respondent's presentation, it adjourned the public session and
21 convened its private session to consider the evidence. Motion, Ex. 21 at 5 (pages 14-17). In the first
22 paragraph, the "Commission's Order . . . (2) Suspending Respondent From the Exercise of Judicial
23 Office with Salary Pursuant to NRS 1.4675(4)" ("Order") states that the Commission considered all
24 testimony and evidence submitted at the public hearing. Motion, Ex. 22. In footnote 6, the Order
25 specifically lists the evidence considered which included emails in support and in opposition to
26 Respondent returning to the bench. *Id.* In its discussion of whether Respondent poses a substantial
27 threat of serious harm to the public or to the administration of justice, the Order at page 4 outlines
28 the standard of NRS 1.4675(4) and the Nevada Supreme Court's description of the Commission's

1 suspension power set forth in *Halverson*, 123 Nev. at 517-18, 169 P.3d at 1177-78, including the
2 court's statement therein that it is not a matter of guilt or innocence, but "a determination that an
3 interim suspension is warranted to protect the integrity of the judiciary pending resolution of the
4 case." The Order then proceeds to discuss Respondent's dishonesty and retention of funds
5 maintained under false pretenses and how this "reveal[s] a current, emergent threat to the judiciary."
6 *Id.* at 5. It closed by making a finding that, after examining the evidence submitted and considering
7 the totality of the circumstances, the preponderance of the evidence supports that the Respondent's
8 return to the bench poses a substantial threat of serious harm to the public and to the administration
9 of justice. *Id.* at 6. This finding conforms to the *Halverson* standard.

10 Respondent claims that the "substantial mitigating evidence" of the letters of support for
11 Respondent were not "meaningfully considered." Motion at 9. This is false. As stated above, after
12 listening to Respondent's presentation and receiving all the evidence, the Commission convened its
13 private session to deliberate. The Commission's Order, however, explicitly states that in those
14 deliberations the Commission considered all testimony and evidence submitted at the public hearing.
15 Motion, Ex. 22. Further, in footnote 6, the Order specifically lists the evidence considered which
16 included "emails from the public in favor of and in opposition to Respondent returning to the
17 bench." *Id.* (emphasis added). The Order does specifically reference the emails "calling into
18 question Respondent's honesty" as illustrating the harm to the "public's perception of the judicial
19 system" but this makes sense because the very existence of these emails demonstrates this harm
20 notwithstanding the existence of other emails in support of Respondent. Moreover, the emails were
21 only one of six (6) items of evidence considered. Footnote 6 in the Order also lists: "(I) superseding
22 criminal indictment; (ii) certified trial transcripts from Respondent's federal criminal trial; (iii)
23 certified copy of jury verdict; (iv) motion for judgment of acquittal, reply to the motion for acquittal,
24 motion for new trial and reply to motion for new trial; (v) order denying motions for acquittal and
25 new trial." The emails were a factor among the totality of the circumstances considered, as is the
26 appropriate standard. *See Halverson*, 123 Nev. at 510-11, 169 P.3d at 1173.

27 Respondent also faults the Order for citing the fact that she did not provide evidence or
28 testimony that she notified the donors after becoming a judicial officer [that their donations would

1 not be used to build the statue] or that she repaid them or intends to repay them. Motion, Ex. 22 at 5.
2 Respondent claims this is unfair because the Commission had not told her specifically that they
3 would be considering this fact. Motion at 5. This complaint ring hollow. First, the Notice
4 referenced the federal case in which Respondent was convicted of one count of Conspiracy to
5 Commit Wire Fraud and six counts of Wire Fraud, all felonies, and all based on the underlying facts
6 that Respondent solicited donations for the building of a statue honoring fallen police officers and,
7 once the specific purpose of such donations was abrogated, failed to notify the donors of this fact,
8 failed to request instructions regarding alternative use of the donations and/or failed to return the
9 donations to the donors. Second, in opposing the Notice, Respondent submitted letters and pictures
10 from Respondent's daughter and grandchildren and emails from other people who apparently knew
11 her. Therefore, Respondent was very much aware that the Commission would be considering the
12 underlying facts of the federal case and that she needed to provide character rehabilitating evidence.
13 What could be more relevant to rehabilitating her character than to acknowledge the facts before the
14 federal court and present her efforts to "do right" by those involved in the subject matter that was
15 before the federal court, or at the very least to provide more explanation regarding the situation.
16 Respondent's claim that she could not possibly be expected to "reimburse campaign donors before
17 the criminal case was resolved," *see* Motion at 12:1-15, is irrelevant because the federal case was
18 resolved more than a year ago. The Commission is not required to lay out a road map for how the
19 Respondent can convince it that her return to the bench will not pose a substantial threat of serious
20 harm to the public.⁶ The reference in the Notice to the federal criminal case clearly put Respondent,
21 who is represented by counsel, who also represented Respondent in the underlying criminal case, on
22 notice that she needed to be ready to address those facts and not merely to present evidence that
23 family and friends think she is loving, hard working and community oriented. Moreover, the VSC,
24 also issued on May 2, 2025, very clearly laid out the Commission's concern regarding Respondent's
25 failure to repay the donations or to contact the donors. Motion, Ex. 23. Respondent was on full
26

27 ⁶ Can Respondent or her attorney credibly claim that they thought pictures drawn in crayon
28 by Respondent's grandchildren would be the evidence that would rule the day? *See* Motion, Ex. 20
at 2-5.

1 notice, was provided full opportunity to be heard and nothing in the Order suggests, much less
2 demonstrates, dishonesty, bias or prejudgement. Therefore, as to the Notice, hearing on the Notice
3 and the Commission's Order of Suspension, Respondent has not met her burden under *Mosley* or
4 *Halverson*.

5 **C. May 2, 2025 Verified Statement of Complaint**

6 Respondent also acknowledges that the Commission followed NRS by filing a VSC, through
7 its Executive Director. Motion at 5:19 - 6:11. NRS 1.4655 provides that the Commission's inquiries
8 begin upon the receipt of a complaint and that, thereafter, the Commission shall, if it does not
9 dismiss or resolve the matter, authorize the filing of a formal statement of charges, and NCJD Rule
10 10.2 specifically allows the Executive Director to file a Complaint based on "information received
11 *in any form or from any source* that alleges objectively verifiable evidence from which a reasonable
12 inference can be drawn that a judge committed judicial misconduct." (Emphasis added). The
13 Executive Director did exactly this and so the Commission, therefore, followed the exact steps
14 provided by statute and its procedural rules.

15 The fact that prior to 1998, the Commission could not initiate its own complaint is irrelevant
16 and a red herring. *See* Motion at 11:7-17. As Respondent acknowledges in the very next paragraph
17 of her Motion, the Commission may now "initiate a complaint on its own — its Executive Director
18 may sign and file the complaint in the absence of an outside complainant." Motion at 11:18-19.
19 Respondent implies, without citing to any authority, that an affidavit should have been attached to
20 a complaint filed by the Executive Director. This is not supported by law.

21 Even more irrelevant is Respondent's characterization (without support) that complaints
22 initiated by the Executive Director were intended to be the exception. Motion at 12:22-23 (failing
23 to cite to legislative history or any other evidence or support for her assertion). Respondent cites
24 only to NRS 1.4655 stating that the Commission may begin an inquiry upon the receipt of a
25 complaint and NRS 1.465 stating that persons who file complaints enjoy immunity. Neither of these
26 provisions limit the use of complaints initiated by the Executive Director. Additionally, her assertion
27 that only 1% of complaints filed in the NCJD are initiated by the Executive Director is irrelevant,
28 although it would appear to be the "exception" it true. First, her support for the 1% value is based

1 on only one annual report (FY 2024 Annual Report), but even if it represented the NCJD's entire
2 history, it is still irrelevant. NCJD Rule 10.2 authorizes the Executive Director to initiate a
3 complaint when directed by the Commission if "the Commission receives information *in any form*
4 *or from any source that alleges objectively verifiable evidence from which a reasonable inference*
5 *can be drawn that a judge committed judicial misconduct.*" (Emphasis added). Thus, the Executive
6 Director was authorized by the PRJDC to initiate the VSC in this matter and, given the public record
7 from the federal case, there can be no question that it was based on "objectively verifiable evidence."

8 Further, contrary to Respondent's claims in her Motion, the VSC does not represent that it
9 "was not disciplining Judge Fiore for pre-bench conduct." See Motion at 5:22. What the VSC does
10 represent is that certain facts were considered by the federal court, including acts occurring before
11 she was a judicial officer, and that she neither repaid the funds she collected nor informed donors
12 that the funds collected were not used to build the statue.⁷ There is nothing *ad hoc* about the
13 Commission's approach to Respondent's case. See Motion at 12:17-18. Rather, it is following
14 statutes and rules that have been in place for decades. Thus, all the way through to the VSC,
15 Respondent has not met her burden under *Mosley* or *Halverson*.

16 **D. The Investigation Report**

17 Respondent cites to no authority for the proposition that the Commission's investigator was
18 required to interview her once the VSC was filed. See Motion at 10:5-17. Indeed, her counsel would
19 have most likely objected to that. Respondent filed a Response to Verified Complaint dated April
20 20, 2026. However, rather than denying the allegations in the VSC, she simply, once again, argued
21 why the VSC should be dismissed. Respondent will also have her opportunity to answer questions
22 and tell her story at the hearing on October 19-22, 2026. Similarly, the fact that federal trial exhibits
23 were not formally requested until September 14, 2026, see Motion at 14:10-11, is not procedurally

25 ⁷ Although the VSC makes very clear which facts it is considering it does not, as Respondent
26 claims in her Motion at 5:22-24, "represent[] that it was not disciplining Judge Fiore for pre-bench
27 conduct, but for a purported 'continuing' obligation arising after she took office." (Emphasis in
28 original). Neither does it "acknowledge[] that these counts are based on conduct that occurred before
Judge Fiore assumed the office of justice of the peace," as her Motion claims at 5:24 - 6:1. These
quotations are not in the VSC.

1 inappropriate. They have been requested and obtained and will be introduced as exhibits at the
2 hearing in this matter, at which Respondent will have her opportunity to answer questions about
3 them.

4 **E. Formal Statement of Charges**

5 The Formal Statement of Charges (“FSOC”) sets forth the underlying facts of the federal case
6 and, in Counts I-III, describes her violations of Code of Judicial Conduct Canon 1, Rule 1.1 and Rule
7 1.2 with facts sufficient to state a claim against Respondent. This avoids a motion to dismiss
8 pursuant to NRCP 12(b)(5) and is in compliance with NCJD Rule 15 which requires only the
9 referencing of “the relevant provisions of the Nevada Revised Statutes, the Revised Nevada Code
10 of Judicial Conduct and the Nevada Constitution” and the provision of “a clear statement of all acts
11 and omissions which are alleged to warrant action by the Commission.” It is not procedurally
12 inappropriate that the FSOC did not cite specific case law that supported imposing discipline because
13 this is not required. The Nevada Supreme Court has held that “our notice-pleading standard does
14 not require the plaintiff to indicate a specific ‘legal theory’ or use ‘precise legalese’ to give notice
15 to the defending party.” *Harris v. State*, 138 Nev. 390, 407, 510 P.3d 802, 807 (2022) (*quoting*
16 *Western States Constr., Inv. v. Michoff*, 108 Nev. 931, 936, 840 P.2d 1220, 1223 (1992)).
17 Moreover, as described more below, the Commission has already determined that the FSOC satisfied
18 due process, but, out of abundance of caution, also granted the Special Counsel leave to amend the
19 FSOC to add more specificity as to legal theories alleged. Motion, Ex. 26.

20 **F. July 31, 2026 Order Denying Motion to Dismiss Formal Statement of Charges**

21 This Order does not represent a “mid-case reversal of the Commission’s jurisdictional
22 position.” *See* Motion at 9:15-16. In its July 31, 2026 Order, at page 10, the Commission clearly
23 states that the FSOC “bases its allegations on actions taken by Respondent after she became a
24 judicial officer, not before.” It only cites to a case from Nebraska to support the rare case where the
25 appearance of impropriety, that occurs after taking the bench, is based on acts that occurred before
26 taking the bench. Notwithstanding, the July 31, 2026, Order closes out this discussion by stating
27 “[i]n any event, in this matter, the FSOC brought against Respondent alleges violations of the Code
28 (i.e., subject matter jurisdiction) occurring after Respondent was sworn in as a judicial officer (i.e.,

1 personal jurisdiction).” So, it certainly did not, as Respondent states, rely on this legal authority.
2 See Motion at 10:21-22. More to the point, there is nothing about it that suggests dishonesty, bias
3 or prejudgement. Once again, Respondent has failed to meet her burden under *Mosley* or
4 *Halverson*.⁸

5 III. Conclusion

6 Respondent misunderstands, or, more likely, refuses to acknowledge that she is in the midst
7 of an ongoing process demanded by the people of the State of Nevada in their Constitution.
8 Frankly, she is “barking up the wrong tree” with arguments that should be directed at the Nevada
9 Supreme Court, if at all! The allegations in the VSC and charges in the FSOC are just that. Like
10 allegations and causes of action in any civil complaint, they will eventually be proven or disproven
11 at the hearing. Her suspension pending that process is an interim suspension, at the discretion of
12 the Commission. Now is the time to prepare to address these charges at the hearing and not to
13 continue wasting the Commission’s time by attempting to make the whole thing “go away” with
14 frivolous motions. Fortunately, the Commission need take little time dispensing with the Motion.
15 Respondent has failed to even attempt to overcome the presumption of the Commission members’
16 honesty and has presented no evidence to demonstrate “under a realistic appraisal of psychological
17 tendencies and human weakness,” that conferring investigative and adjudicative powers on these
18 same individuals “poses a risk of actual bias or prejudgment.” See *Mosley*, 117 Nev. at 381, 22 P.3d
19 at 661. Moreover, by describing every step that the Commission has taken, which has been
20 authorized by the Constitution, the NRS and the PRJDC, Respondent, herself, has demonstrated that
21 she has (and will at the upcoming hearing) receive the “essence of due process” in judicial
22 proceedings — “the opportunity to be heard ‘at a meaningful time in a meaningful manner.’” See
23 *Halverson*, 123 Nev. at 518, 169 P.3d at 1178.

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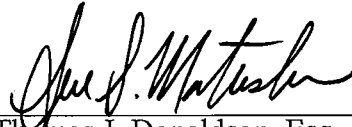
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26
27 ⁸ While purporting to be prejudiced by the Commission’s citation to this Nebraska case
28 because it deprived her “of any meaningful opportunity to address or distinguish that authority before
it was used against her,” see Motion at 10:22-23, Respondent makes no efforts to address or
distinguish it in her Motion.

1 Special Counsel for the Nevada Commission on Judicial Discipline respectfully requests that
2 the Motion be denied.

3 DATED this 9th day of October, 2026.

4 MESSING ADAM JASMINE & SHORE, LLP

5
6 By: 

7 Thomas J. Donaldson, Esq.
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16 Special Counsel for the Nevada
17 Commission on Judicial Discipline
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this OPPOSITION TO RESPONDENT'S AMENDED
MOTION TO DISMISS was sent via electronic mail addressed to:

Paola M. Armeni, Esq.
Clark Hill, PLLC
1700 S. Pavillion Center Dr., Ste. 500
Las Vegas, NV 89135
parmeni@clarkhill.com

Dated this 9th day of October, 2026.

By: Kelly Gilbert
Kelly Gilbert

EXHIBIT 1

EXHIBIT 1

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF THE
HONORABLE MICHELE FIORE,
JUSTICE OF THE PEACE, PAHRUMP
TOWNSHIP JUSTICE COURT,
COUNTY OF NYE, STATE OF NEVADA

No. 89037

IN THE MATTER OF THE
HONORABLE MICHELE FIORE,
JUSTICE OF THE PEACE, PAHRUMP
TOWNSHIP JUSTICE COURT,
COUNTY OF NYE, STATE OF NEVADA

No. 90650

THE HONORABLE JUDGE MICHELE
FIORE, JUSTICE OF THE PEACE,
PAHRUMP TOWNSHIP JUSTICE
COURT, COUNTY OF NYE, STATE OF
NEVADA,

No. 90810

Petitioner,

vs.

THE NEVADA COMMISSION ON
JUDICIAL DISCIPLINE, STATE OF
NEVADA,
Respondent.

FILED

APR 10 2026

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

*ORDER DISMISSING APPEAL, DENYING PETITION,
AND AFFIRMING INTERIM SUSPENSION*

These consolidated cases challenge orders of suspension issued by respondent the Nevada Commission on Judicial Discipline (the Commission) and a complaint filed by the Commission director.

Appellant/petitioner Michele Fiore (Judge Fiore) filed three separate cases against the Commission. On March 6, 2026, this court entered an order consolidating Docket Nos. 89037 (appeal from the order of

suspension without salary), 90650 (appeal from the order of suspension with salary), and 90810 (petition for a writ of mandamus or prohibition regarding the complaint). The underlying proceedings arose from federal criminal charges that were brought against Judge Fiore, and allegations of ongoing misconduct occurring during her time as a judicial officer.

In July 2024, the Commission began inquiry into Judge Fiore's alleged misconduct after a federal grand jury indicted Judge Fiore for conspiracy to commit wire fraud and six counts of wire fraud. As part of this initial investigation, the Commission entered an order suspending Judge Fiore with salary. In October 2024, Judge Fiore's case went to trial and a federal jury found Judge Fiore guilty on all counts. In response to her conviction for felony offenses, the Commission rescinded the suspension with salary and instead suspended Judge Fiore without salary. The appeal and amended appeal involving these orders was assigned Docket No. 89037. In April 2025, before Judge Fiore was sentenced, President Donald Trump issued an Executive Grant of Clemency that bestowed a full and unconditional pardon for all charges against Judge Fiore in the federal criminal action.

In May 2025, the Commission responded by entering an order rescinding Judge Fiore's suspension without salary and instead suspending her with salary. The appeal from this order was assigned Docket No. 90650. Also in May 2025, Paul Dehyle, the Commission director, instituted a new complaint against Judge Fiore for violating the code of judicial conduct. Judge Fiore petitioned for a writ of mandamus and prohibition regarding the complaint, which was assigned Docket No. 90810.

Docket No. 89037

In October 2024, a federal jury found Judge Fiore guilty on all counts. As a result, the Commission issued orders suspending Judge Fiore

without salary pursuant to NRS 1.4675(2)(b). That statute provides “[t]he Commission may suspend a judge from the exercise of office without salary if the judge . . . is found guilty . . . [of] a crime punishable as a felony.” Judge Fiore appealed. Due in part to the suspension without salary being rescinded after Judge Fiore’s pardon, both parties conceded at oral argument that this matter is now moot. *See Univ. & Cmty. Coll. Sys. of Nev. v. Nevadans for Sound Gov’t*, 120 Nev. 712, 720, 100 P.3d 179, 186 (2004) (recognizing that “cases presenting live controversies at the time of their inception may become moot by the occurrence of subsequent events”). Accordingly, we dismiss this appeal.

Docket No. 90650

In May 2025, the Commission entered an order rescinding Judge Fiore’s suspension without salary pursuant to NRS 1.4675(2)(b) and suspending her with salary pursuant to NRS 1.4675(4). Judge Fiore argues the Commission abused its discretion by ordering the suspension. According to Judge Fiore, the Commission does not have jurisdiction to suspend her and failed to provide her with adequate notice in violation of due process guarantees. This court reviews purely legal questions, including issues of constitutional and statutory interpretation, *de novo*. *In re Halverson*, 123 Nev. 493, 509, 169 P.3d 1161, 1172 (2007). The Commission’s final decision to suspend a judge, however, is reviewed for abuse of its discretion. *Id.* at 510, 169 P.3d at 1172-73.

The Commission has jurisdiction

Judge Fiore argues that the Commission lacks jurisdiction to order her suspension because the Commission can only impose discipline based on “an act or omission that occurs *on and after the date* on which the judge enters upon the duties of office.” NRS 1.440(2)(b) (emphasis added). Because the misconduct leading to the federal criminal action occurred

before she took the bench, Judge Fiore argues the Commission cannot discipline her. We disagree.

To begin, the Commission has yet to impose any discipline or punishment on Judge Fiore. Rather, the issue of Judge Fiore's alleged misconduct remains in the investigative phase. There has been no filing of a formal statement of charges by the Commission, no adjudication of any formal charges, and no discipline imposed regarding any formal charges. Moreover, the interim suspension order clearly explains that the Commission based the suspension on an allegation that Judge Fiore has engaged in misconduct during her time as a judicial officer. Thus, we conclude that the Commission has jurisdiction under NRS 1.440(2)(b) to impose Judge Fiore's interim suspension with salary pursuant to NRS 1.4675(4).

The Commission did not abuse its discretion

Judge Fiore argues the Commission abused its discretion in determining that she posed a substantial threat of serious harm to the public or to the administration of justice. The Commission is permitted to impose an interim suspension on a judge in judicial discipline proceedings "in its discretion," Nev. Const. art. 6, § 21(9), and this court reviews the Commission's decision to issue a suspension for an abuse of discretion, *In re Halverson*, 123 Nev. at 510, 169 P.3d at 1173 ("[A] tribunal abuses its discretion when, among other things, it applies an incorrect legal standard.").

The Commission examined the evidence submitted and the totality of the circumstances and found by a preponderance of the evidence that Judge Fiore posed "a substantial threat of serious harm to the public and to the administration of justice." See *In re Halverson*, 123 Nev. at 510-11, 169 P.3d at 1173 (explaining that the proper standard for determining

whether an interim suspension is warranted is “whether, by a preponderance of the evidence, the totality of the circumstances demonstrates that a judge poses a substantial threat of serious harm to the public or to the administration of justice”). The Commission explained that the interim suspension was based on Judge Fiore’s ongoing deceit of donors and unjust enrichment during her time as a judicial officer, “harm[ing] the public’s perception of the judicial system and its confidence in the system’s legitimacy, creat[ing] the appearance of impropriety, reflect[ing] adversely on [Judge Fiore’s] honesty and character, and undermin[ing] her ability to impose justice and apply the law fairly.” *See also id.*, at 522, 169 P.3d at 1180 (explaining the purpose of an interim suspension is to “protect the public and administration of justice” and noting “[a]n effective justice system requires public confidence in the judiciary’s integrity”). We conclude Judge Fiore has not demonstrated the Commission abused its discretion in determining that an interim suspension was warranted.¹ Therefore, we affirm the Commission’s decision to suspend Judge Fiore with salary.

Docket No. 90810

In May 2025, the Commission’s director, Paul Dehyle, instituted a new complaint with the Commission against Judge Fiore for violating the Nevada Code of Judicial Conduct Rules 1.1 and 1.2. Judge Fiore petitioned for a writ of mandamus and prohibition.

A writ of mandamus is available to “compel the performance of an act that the law requires . . . or to control an arbitrary or capricious exercise of discretion.” *Int’l Game Tech., Inc. v. Second Jud. Dist. Ct.*, 124 Nev. 193, 197, 179 P.3d 556, 558 (2008); NRS 34.160. A writ of prohibition

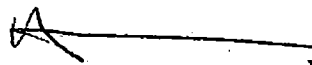
¹Having considered the parties’ remaining arguments in No. 90650, we conclude they are without merit.

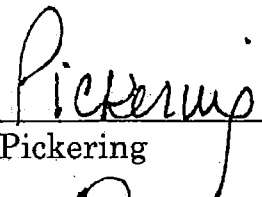
may be issued to “arrest[] the proceeding of any tribunal . . . when such proceedings are without or in excess of the jurisdiction of such tribunal.” NRS 34.320. Such extraordinary relief is available only where there is no plain, speedy, and adequate remedy in the ordinary course of law. NRS 34.170; NRS 34.330; *Smith v. Eighth Jud. Dist. Ct.*, 107 Nev. 674, 677, 818 P.2d 849, 851 (1991). Ultimately, it is within this court’s sole discretion whether to consider a petition for extraordinary relief. *Smith*, 107 Nev. at 677, 818 P.2d at 851.

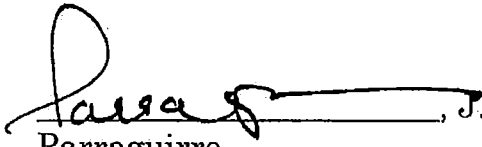
This court has entertained petitions for a writ of mandamus when a judge seeks prehearing relief during disciplinary proceedings on the basis that “no adequate legal remedy exists.” *Jones v. Nev. Comm’n on Jud. Discipline*, 130 Nev. 99, 104, 318 P.3d 1078, 1082 (2014); *see also Andress-Tobiasson v. Nev. Comm’n on Jud. Discipline*, No. 77551, 2019 WL 2094207, at *1 (Nev. May 10, 2019) (Order Granting in Part and Denying in Part Petition for Writ of Mandamus or Prohibition). Here, however, Judge Fiore is not challenging any of the Commission’s discretionary procedural actions. Instead, Judge Fiore petitions for a writ of mandamus or prohibition regarding the complaint itself, seeking to foreclose the Commission from investigating her and potentially considering formal disciplinary proceedings. Because the Commission has not yet imposed any discipline or even filed a formal statement of charges to initiate formal disciplinary proceedings, we decline to entertain the petition for a writ of mandamus as it is premature. We also decline to entertain the petition for a writ of prohibition because, at this early point in the process, it remains to be seen whether formal proceedings will be brought and whether any potential formal proceedings “are without or in excess” of the Commission’s jurisdiction. NRS 34.320. Based on the foregoing, we dismiss the appeal in

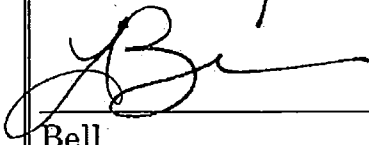
No. 89037 as moot, affirm the order of suspension in No. 90650, and deny the petition in No. 90810.

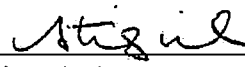
It is so ORDERED.


_____, C.J.
Herndon


_____, J.
Pickering


_____, J.
Parraguirre


_____, J.
Bell


_____, J.
Stiglich


_____, J.
Cadish


_____, J.
Lee

cc: Clark Hill PLLC
Nevada Commission on Judicial Discipline
Fennemore Craig P.C./Reno