



1 PAOLA M. ARMENI
 Nevada Bar No. 8357
 2 **CLARK HILL PLLC**
 1700 South Pavilion Center Drive, Suite 500
 3 Las Vegas, Nevada 89135
 Tel: (702) 862-8300
 4 Fax: (702) 778-9709
 Email: parmeni@clarkhill.com
 5 *Attorney for Respondent, the Honorable Michele Fiore*

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

7 **STATE OF NEVADA**

8 In the Matter of the,
 9 HONORABLE MICHELE FIORE
 10 Judge, Pahrump Township, County of Nye, State
 of Nevada
 11 Respondent.

COMMISSION CASE NO. 2025-108

13 **THE HONORABLE JUDGE MICHELE FIORE’S MOTION TO DISMISS**

14 Respondent, Michele Fiore, by and through her attorney of record Paola M. Armeni, Esq.,
 15 of the law firm of Clark Hill PLLC, hereby moves the Nevada Commission on Judicial Discipline
 16 to dismiss the Statement of Formal Charges with prejudice.

17 The disciplinary commission is charged with upholding the rule of law. As such, it cannot
 18 base its actions on personal beliefs, selectively manipulate its own rules, or expand its authority in
 19 an active attempt to override the legal effect of a Presidential Pardon, the will of the citizens of
 20 Nye County who elected Judge Fiore, and the intentions of the subject donors themselves.

21 Jurisdiction is not a procedural technicality. It is the constitutional boundary separating
 22 lawful authority from governmental overreach. If the Commission’s theory were accepted, any
 23 unresolved allegation, debt, dispute, or accusation predating judicial service could be converted
 24 into an ongoing ethics violation the moment an individual assumes judicial office. Nothing in
 25 Nevada law authorizes such limitless power.

1 This proceeding presents a fundamental constitutional and jurisdictional defect that cannot
2 be cured through recharacterization, implication, or shifting theories of discipline. The Nevada
3 Commission on Judicial Discipline seeks to exercise authority far beyond the limits imposed by
4 NRS Chapter 1, the Revised Nevada Code of Judicial Conduct, and the Procedural Rules of
5 Nevada Judicial Discipline Commission (“PRJDC”). The Statement of Formal Charges is not
6 grounded in identifiable judicial misconduct occurring during Judge Fiore’s service on the bench.
7 Instead, it attempts to retroactively transform alleged private pre-bench conduct into an indefinite
8 and continuing ethics violation through a novel theory unsupported by statute, canon, rule, or
9 precedent.

10 The Commission identifies no independent post-investiture misconduct. It alleges no
11 improper judicial ruling, no misuse of judicial office, no post-bench solicitation, no post-bench
12 misrepresentation, no new violation of any judicial duty, and no legally enforceable obligation
13 arising during Judge Fiore’s tenure in judicial office. Rather, the Charges rely entirely on
14 allegations tied to conduct allegedly completed before Judge Fiore ever assumed judicial office
15 and then attempt to manufacture jurisdiction by labeling the continuing existence of an alleged
16 unpaid obligation as “continuing misconduct.” But continuing effects are not continuing acts, and
17 absent a legally enforceable duty, there can be no continuing violation capable of invoking the
18 Commission’s disciplinary authority.

19 The defects in the Statement of Formal Charges do not end there. The Charges fail to satisfy
20 the most basic requirements of due process because they do not identify with specificity the
21 statutory grounds for discipline under NRS 1.4653. The Commission leaves Judge Fiore to
22 speculate as to which subsection of the disciplinary statute applies, what legal duties were violated,
23 and what actionable conduct forms the basis for each count. Such ambiguity is constitutionally
24 intolerable in a disciplinary proceeding where reputation, office, and professional standing are at
25 stake.

26 Count One fails because it never identifies any statute, court order, judgment, contractual
27 duty, restitution obligation, or other legally enforceable requirement compelling repayment of
28 funds. Without an identifiable legal obligation, there can be no violation of Canon 1.1’s

1 requirement to comply with the law. Count Two fails because Canon 1.2 cannot independently
2 convert completed pre-bench private conduct into a perpetual ethics violation untethered to any
3 continuing legal duty or post-investiture judicial act. And Count Three fails because it improperly
4 conflates a later jury verdict with judicial misconduct, even though the underlying conduct
5 predated judicial service and despite the Commission's own prior determinations that proceeding
6 solely on the verdict was premature. The Commission's shifting position includes rescinding
7 suspension proceedings following the Presidential Pardon while now relying on the same verdict
8 as a basis for discipline. This underscores the absence of any coherent or consistently applied
9 disciplinary theory.

10 Because the Commission lacks jurisdiction and because the Statement of Formal Charges
11 fails to state legally cognizable claims consistent with due process and Nevada's disciplinary
12 framework, Judge Fiore respectfully moves this Commission for dismissal of the Statement of
13 Formal Charges in its entirety.

14 **MEMORANDUM OF POINTS AND AUTHORITIES**

15 **I.**

16 **RESPONSE TO FACTUAL ALLEGATIONS**

17 For all the reasons set forth in this Motion, the allegations arising from 2019–2020 pre-
18 bench conduct cannot serve as a lawful basis for judicial discipline against a now-sitting judge and
19 are therefore irrelevant to these proceedings. Judge Fiore should not be required to relitigate the
20 criminal matter¹ for which she was pardoned or explain matters that fall outside the Commission's
21 jurisdiction and disciplinary authority. Nevertheless, because the Commission continues to
22 repeatedly invoke and rely upon these allegations, Judge Fiore provides the following clarification
23 solely to address the narrative the Commission persists in advancing.

24 As a Las Vegas City Councilwoman, Michele Fiore frequently organized and supported
25 charitable and community events throughout her district, including the Alyn Beck Park. Donations
26

27 ¹ The federal case alleged violations of federal statutes. The Commission alleges violations of the
28 Revised Nevada Code of Judicial Conduct.

1 collected during this time were often used to notify and invite residents to community events,
2 including the opening of Beck Park, as well as to support and uplift constituents in need. One such
3 family was the Minkowsky family. During December 2019 and February 2020, Ms. Fiore covered
4 spa treatments for Michael Minkowsky, a constituent battling Stage IV cancer. ECF No. 91²: 24-
5 27. Ms. Fiore also routinely hosted community events for holidays such as the Fourth of July,
6 Easter, Halloween, and Christmas. ECF No. 91:24.

7 Additionally, during the 2019–2020 period, Councilwoman Fiore organized numerous
8 charitable initiatives, including a Christmas Fantasy Forest, back-to-school drives providing
9 backpacks, school supplies, and even a 3D printer, Christmas pasta events hosted at her home, toy
10 drives benefiting Child Haven, and blanket donations for Corridor of Hope. ECF No. 91 at 46-60.
11 Also, Ms. Fiore often held gatherings for families in her district at Floyd Lamb Park. ECF No.
12 91:24. These activities reflect a pattern of community engagement and charitable involvement
13 during the time period of 2019-2020.

14 Of the more than \$70,000 the Commission alleges was solicited by Michele Fiore, not Judge
15 Fiore, approximately \$37,500 came from individuals who either never met Ms. Fiore or admitted
16 under oath that any solicitation did not come from her personally.

17 **David Chesnoff** testified that Ms. Fiore has never asked him to donate to a charity
18 for which he is aware.¹ He never had a conversation with Ms. Fiore about the
19 donation. ECF No. 87 at 270:18-21. Tami Montes (**Siegel Group**) did not testify as
20 to why the check was requested or from whom. ECF No. 60, 91- 104. **Brett Torino**
21 (**BPS Management**) could not even specify how he learned where to direct his
22 donation to, as he did not know Ms. Fiore and never spoke with her about the
23 donation. ECF No. 88, at 25:20-25; 26:1-7. **Robert Richardson (Community**
24 **Ambulance)** testified he met Ms. Fiore “a couple times,” but he was clear that she
25 did not personally ask him to donate. ECF No. 60 at 58:13-17. **Harry Mohney**
26 testified that he does not know Michele Fiore³ and it was not Ms. Fiore who reached
27 out to him to request a donation. *See* ECF No. 88 at 15:12-15. **Robert Groesbeck**
28 testified that he had known Michele Fiore for a long time but had no conversations
with her on the topic (re: statute). ECF No. 60 at 47.

As to the remaining donations, additional clarification is necessary.

² ECF No. refers to the federal filings. As the Judicial Commission has previously acknowledged they are in possession of the trial transcripts.

³ *See* ECF No. 88 at 15:4-5.

1 **Joe Lombardo Donation**

2 In Mr. Lombardo’s original statement to the FBI, he stated that Jay Brown, not Michele
3 Fiore, requested the donation.⁴ Moreover, the check was not drawn from his personal bank
4 account, but rather from the “Joe Lombardo for Sheriff” account. Thus, the funds donated were
5 campaign funds previously contributed to his sheriff’s campaign and later used for another
6 purpose. Ironically, the same conduct the Commission seeks as its basis for discipline.

7 **Peter Palivos Donation**

8 Mr. Palivos testified that his \$2,500 contribution was intended for “veterans, homeless or law
9 enforcement.” ECF No. 90 at 46. Consistent with that testimony, the memo line on the check
10 expressly stated, “charitable donation.”

11 **Tommy White Donation**

12 The \$5,000 check from LECET expressly identified the payment as a “sponsorship.” ECF No.
13 87 at 87. Mr. White testified that returning donations is “an accounting nightmare.” ECF No. 60:
14 204.

15 **PAC Contributions**

16 The checks from Joe Lombardo and Tommy White were written to Councilwoman Fiore’s
17 PAC. As testified to by Mark Wlaschin, contributions made to a PAC are not restricted donations.
18 ECF 60 at 168-169. In other words, once contributed, donors generally do not retain control over
19 how PAC funds are ultimately expended.

20 Additionally, while not set forth in full detail at this stage of the proceedings, if necessary,
21 it will be established during the disciplinary hearing that certain donors themselves were, at various
22 times, subjects of FBI inquiry, as reflected in the underlying federal criminal discovery and
23 investigation. Some donors were selected based on information already known to federal
24 authorities. The underlying criminal prosecution itself arose after years of scrutiny and sustained
25 efforts to prosecute Ms. Fiore.

26 Notably, no donor sought criminal prosecution. No donor filed a complaint with the
27

28 ⁴ See Exhibit E to the Motion for New Trial, 7/11/2024 Interview of Joseph Lombardo.

1 Nevada Commission on Judicial Discipline. No donor pursued any civil remedy. Most importantly,
2 no donor ever requested the return of any donation.

3 II.

4 LEGAL STANDARD

5 The Nevada Rules of Civil Procedure provide that the defense of lack of personal and
6 subject matter jurisdiction may be made by motion. NRCP 12(b)(1)(2). NRCP 12(b)(5) permits a
7 party to file a motion to dismiss for failure to state a claim upon which relief can be granted. Such
8 a motion to dismiss should be granted when it appears beyond doubt that the plaintiffs can prove
9 no set of facts which will entitle them to relief. *Pankopf v. Peterson*, 124 Nev. 43, 45, 175 P.3d
10 910, 912 (2008) *citing Vacation Vill., Inc. v. Hitachi Am., Ltd.*, 110 Nev. 481, 484, 874 P.2d 744,
11 746 (1994) (additional citation omitted). “Dismissal is proper where the allegations are insufficient
12 to establish the elements of a claim for relief.” *Stockmeier v. Nevada Dept. of Corr. Psychological*
13 *Review Panel*, 124 Nev. 313, 316, 183 P.3d 133, 135 (2008) (citation omitted); *see also Sanchez*
14 *ex rel. Sanchez v. Wal-Mart Stores, Inc.*, 125 Nev. 818, 823, 221 P.3d 1276, 1280 (2009) (“the
15 allegations must be legally sufficient to constitute the elements of the claim asserted”).

16 On a motion to dismiss a claim for failure to state a claim, all factual allegations of the
17 complaint must be accepted as true, and the general rule is that a court may not consider matters
18 outside of the pleading being attacked. *Breliant v. Preferred Equities Corp.*, 109 Nev. 842, 845-
19 47, 858 P.2d 1258, 1260-61 (1993).

20 III.

21 LEGAL ARGUMENT

22 A. THE NEVADA COMMISSION ON JUDICIAL DISCIPLINE LACKS 23 JURISDICTION TO BRING A FORMAL STATEMENT OF CHARGES

24 The Commission lacks jurisdiction to proceed because the Statement of Formal Charges is
25 based on alleged conduct that occurred before Judge Fiore assumed judicial office and therefore
26 falls outside the Commission’s disciplinary authority under NRS Chapter 1, the Revised Nevada
27 Code of Judicial Conduct, and the PRJDC.

28 The Commission’s jurisdiction is limited to judicial misconduct. PRJDC 8.1 extends the

1 Commission's authority to persons "who perform or formerly performed judicial functions." The
2 rule does not create unlimited jurisdiction over every act committed by a judge at any point in her
3 private life. Rather, the Commission's authority exists to discipline conduct constituting judicial
4 misconduct under NRS 1.4653 and the Revised Nevada Code of Judicial Conduct.

5 Here, the alleged acts underlying the Statement of Formal Charges occurred before Judge
6 Fiore became a judge. The donations at issue were allegedly solicited and received before she
7 assumed judicial office. The alleged wrongdoing, if any, was therefore complete before judicial
8 service began. That jurisdictional defect is fatal because the Statement of Formal Charges
9 identifies no independent post-vestiture conduct bringing the matter within the Commission's
10 authority. It alleges no new solicitation, no new misrepresentation, no misuse of judicial office, no
11 improper judicial act, and no violation of any judicial duty occurring while Judge Fiore served on
12 the bench.

13 Instead, the Commission attempts to avoid this jurisdictional limitation by arguing that the
14 conduct was somehow "continuing." "Michele Fiore and later Judge Fiore came under a legal
15 obligation..." Statement of Formal Charges, Paragraph B. But a continuing violation requires a
16 continuing legal duty. No such duty existed here. Michele Fiore was never subject to a judgment,
17 restitution order, contractual repayment deadline, or any other legally enforceable obligation
18 requiring repayment of the funds. The Statement of Formal Charges identifies no statute, court
19 order, Code, or other legal authority imposing a post-vestiture obligation to return the donations
20 or seek donor instructions regarding their use.

21 Without an underlying legal duty, there can be no continuing misconduct. The continued
22 existence of an alleged unpaid obligation is merely the continuing effect of alleged pre-bench
23 conduct, not a new act of judicial misconduct occurring during judicial service. The Commission's
24 theory would improperly expand judicial discipline beyond its lawful limits. If accepted, any
25 unresolved allegation, debt, or private dispute predating judicial office could be transformed into
26 an ongoing ethics violation simply because the individual later became a judge. Nothing in NRS
27 Chapter 1, the Revised Nevada Code of Judicial Conduct, or the PRJDC authorizes such limitless
28 jurisdiction.

1 Because the Statement of Formal Charges alleges only completed pre-bench private
2 conduct and fails to identify any actionable misconduct occurring during Judge Fiore’s judicial
3 service, the Commission lacks jurisdiction to proceed. The Statement of Formal Charges must
4 therefore be dismissed in its entirety.

5 **B. THE FORMAL STATEMENT OF CHARGES FAIL TO STATE A CLAIM**

6 The Formal Statement of Charges against Judge Fiore is constitutionally and legally
7 deficient because it fails to identify the statutory grounds for discipline, fails to allege the violation
8 of any enforceable legal duty, and improperly attempts to transform alleged pre-bench private
9 conduct into a perpetual judicial ethics violation. Rather than providing the specificity required by
10 the Nevada Constitution, the United States Constitution, NRS Chapter 1, and the PRJDC, the
11 Commission advances vague and shifting theories untethered to any identifiable post-vestiture
12 misconduct or cognizable legal obligation. Due process does not permit discipline by implication,
13 ambiguity, or retrospective expansion of judicial authority. Because the Charges fail to provide
14 adequate notice, fail to state a legally viable basis for discipline, and rely on internal inconsistent
15 theories of misconduct, dismissal is required.

16 1. **The Formal Statement of Charges Violates Fundamental Due Process**
17 **by Failing to Identify the Statutory Grounds for Discipline**

18 The PRJDC expressly requires specificity in disciplinary pleadings. PRJDC 2.5 defines a
19 “Formal Statement of Charges” as a document filed by Special Counsel “setting forth the specific
20 acts of judicial misconduct” pursuant to NRS 1.4267. PRJDC 2.6 further defines “judicial
21 misconduct” as the commission of an act constituting grounds for discipline under NRS 1.4653.

22 Despite these clear requirements, the Formal Statement of Charges fails to identify which
23 provision(s) of NRS 1.4653 Judge Fiore allegedly violated. The omission is not a mere technical
24 defect. NRS 1.4653 contains multiple independent grounds for discipline, each requiring different
25 elements, proof, and defenses. By failing to specify the statutory basis for the alleged misconduct,
26 the Commission leaves Judge Fiore to speculate as to the legal theory against which she must
27 defend herself. Due process does not permit disciplinary charges to proceed on ambiguity,
28 implication, or guesswork. Fundamental fairness requires that a respondent receives clear and

1 adequate notice of the precise allegations and statutory grounds at issue so that she may prepare a
2 meaningful defense. The Commission's failure to identify the particular subsection(s) of NRS
3 1.4653 allegedly implicated deprives Judge Fiore of that constitutionally required notice.

4 Accordingly, the Formal Statement of Charges is legally deficient and should be dismissed.
5 At a minimum, the Commission should be ordered to provide a more definite statement that
6 identifies: (1) each act or omission alleged to constitute misconduct, and (2) the precise
7 subsection(s) of NRS 1.4653 (and any related authority) on which each count is based.

8 2. **Count One Should Be Dismissed as No Legal Obligation Exists**

9 The Formal Statement of Charges fails to provide the constitutionally required notice
10 mandated by both the United States and Nevada Constitutions because it never identifies the
11 underlying legal obligation Judge Fiore allegedly violated. That omission is fatal.

12 Count One alleges a violation of Canon 1.1, which requires a judge to comply with the law.
13 Yet the Statement of Charges does not identify any statute, court order, judgment, restitution order,
14 contractual provision, or other legally enforceable duty requiring repayment by a date certain. The
15 reason for this omission appears straightforward: no such legal obligation exists.

16 There was no judgment entered against Judge Fiore, no restitution order issued by any
17 court, and no contractual agreement imposing a mandatory repayment deadline. Absent an
18 identifiable legal duty, there can be no violation of a canon predicated upon a failure to "comply
19 with the law." The Commission cannot transform an alleged moral expectation, private dispute, or
20 implied obligation into judicial misconduct without first identifying an actual legal requirement
21 that was violated.

22 Due process requires more than conclusory accusations untethered to a cognizable legal
23 duty. A respondent is entitled to know precisely what law she is alleged to have violated so she
24 may meaningfully defend against the charge. Here, the Commission's failure to identify any
25 enforceable legal obligation renders Count One impermissibly vague, constitutionally deficient,
26 and legally unsustainable. As such, Judge Fiore could not have "fail[ed] to comply with the law,"
27 and Count One therefore fails as a matter of law to state a viable allegation under Canon 1.1.

28

1 3. **Count Two Should Be Dismissed Because the Commission**
2 **Impermissibly Attempts to Transform a Completed Pre-Bench Private**
3 **Matter into a Continuing Judicial Ethics Violation**

4 The Commission's theory of discipline improperly attempts to convert an alleged pre-
5 bench private obligation into an ongoing course of judicial misconduct extending indefinitely
6 throughout Judge Fiore's judicial service. Neither the Revised Nevada Code of Judicial Conduct
7 nor NRS Chapter 1 permits such an expansive and boundless theory of disciplinary jurisdiction.

8 The alleged misconduct identified by the Commission was complete, if at all, at the
9 moment the money was solicited and received before Judge Fiore ever assumed judicial office.
10 After that point, there was no new solicitation, no new misrepresentation, no new concealment, no
11 judicial order requiring repayment, no civil judgment, no restitution order, no contractual maturity
12 date, and no other legally operative command imposing a continuing repayment obligation. In
13 short, there was no post-investiture act or omission independently violating NRS 1.4653.

14 Instead, the Commission attempts to characterize the continuing existence of an alleged
15 unpaid obligation as continuing judicial misconduct. But continuing consequences are different
16 from continuing acts. NRS 1.4655 recognizes continuing conduct in certain circumstances, yet the
17 mere continued existence of an unpaid balance does not itself create a new or ongoing course of
18 misconduct absent some independent post-investiture act, omission, or breach of judicial duty.

19 That distinction is critical. The Commission is not identifying ongoing misconduct by
20 Judge Fiore while serving on the bench; it is identifying only the alleged continuing consequence
21 of a completed pre-bench event. The legal question the Commission cannot answer is
22 straightforward: **what legal event transformed an allegedly completed pre-office**
23 **misrepresentation into a continuing duty to repay enforceable through judicial discipline?**

24 No such event exists in the Formal Statement of Charges. The Commission identifies no
25 statute, court order, judgment, contractual repayment deadline, or ethical rule imposing an
26 affirmative post-investiture duty to repay pre-bench donations. Nor does the Nevada Code of
27 Judicial Conduct place judges on notice that unresolved private disputes or historical allegations
28 predating judicial service become perpetual ethics violations upon assuming office.

 Canon 1.2 cannot be stretched to create a free-standing and indefinite obligation to remedy

1 alleged private conduct occurring before judicial service. Otherwise, every undisclosed historical
2 allegation, debt, dispute, or accusation would become perpetually renewable the moment an
3 individual becomes a judge. Nothing in the text of Canon 1.2, NRS 1.4653, or NRS Chapter 1
4 supports such limitless disciplinary authority.

5 Indeed, Count Two underscores this problem by coupling Canon 1.2 with Canon 1.1. That
6 structure necessarily recognizes that Canon 1.2 is not operating independently but instead depends
7 upon some identifiable violation of law under Canon 1.1. Yet Count Two fails to identify any
8 legally enforceable repayment obligation, judicial order, statute, or contractual duty requiring
9 repayment after Judge Fiore assumed office. If there is no actionable violation of law under Canon
10 1.1, then Canon 1.2 cannot independently transform nonpayment into a continuing ethics violation
11 untethered to any legal duty.

12 At most, the allegations describe the lingering effects of an alleged completed pre-bench
13 act, not a new course of judicial misconduct occurring during Judge Fiore's tenure on the bench.
14 Because the Statement of Charges identifies no independent post-investiture misconduct, it fails
15 to state a cognizable basis for discipline under NRS 1.4653 and violates fundamental due process
16 protections guaranteed by the Fourteenth Amendment and Article 1, Section 8 of the Nevada
17 Constitution.

18 4. **Count Three Should Be Dismissed for Failure to Allege Post-
19 Investiture Misconduct, Reliance on a Premature Guilty-Verdict
20 Theory, and the Commission's Inconsistent and Shifting Disciplinary
21 Framework**

22 Count Three is independently deficient and should be dismissed because it rests on a legally
23 flawed and internally inconsistent theory of discipline. It fails to identify any actionable conduct
24 by Judge Fiore while she served on the bench. Instead, it relies on pre-judicial conduct and a later
25 jury verdict that, by itself, does not establish judicial misconduct. This problem is further
26 highlighted by the Commission's own procedural history. The Commission repeatedly determined
27 that relying on the guilty verdict alone was premature, later treated the pardon as a basis to rescind
28 discipline tied to that verdict, and now relies on the same verdict as the basis for the alleged Canon

1 violation. Taken together, these shifting positions show there is no coherent or legally sufficient
2 foundation for Count Three.

3 a) ***Count Three Impermissibly Relies on Pre-Judicial Conduct and***
4 ***Fails to Allege Any Action Taken While Judge Fiore Served on***
5 ***the Bench***

6 Count Three is independently deficient because it fails to identify any act committed by
7 Judge Fiore during her tenure as a sitting judge that would constitute a violation of Canon 1.1 or
8 Canon 1.2. Instead, it improperly conflates the timing of a jury verdict with the timing of the
9 underlying conduct that gave rise to criminal allegations. Canon 1.1 requires a judge to comply
10 with the law, and Canon 1.2 addresses conduct that undermines public confidence in the judiciary.
11 Both provisions necessarily presuppose actionable conduct occurring while the individual is
12 serving in a judicial capacity. Here, however, the conduct underlying the criminal charges
13 indisputably occurred before Judge Fiore assumed judicial office.

14 Although the jury's verdict was returned during her tenure on the bench, a subsequent
15 adjudication does not transform pre-bench conduct into acts committed in a judicial capacity. The
16 Statement of Formal Charges therefore fails to identify any post-investiture conduct that could
17 plausibly support a violation of either Canon 1.1 or Canon 1.2.

18 This defect is legally and constitutionally significant. Absent allegations of conduct
19 occurring during judicial service, Count Three fails to provide constitutionally adequate notice
20 under the Fourteenth Amendment to the United States Constitution and Article 1, Section 8 of the
21 Nevada Constitution. It likewise fails to state a cognizable basis for discipline under the applicable
22 ethical framework. Accordingly, Count Three is facially deficient and cannot proceed as pled.

23 b) ***The Commission's Own Rules and Prior Determinations Establish***
24 ***That Proceeding Solely on the Guilty Verdict Was Premature***

25 The Commission's procedural history reflects a clear and repeated determination that
26 initiating or advancing disciplinary action based solely on the jury's guilty verdict was premature.
27 Under PRJDC 2.5, disciplinary proceedings must be grounded in a coherent and timely application
28 of defined procedural standards, including sufficient factual specificity and procedural readiness

1 before formal action is pursued.

2 Consistent with those requirements, the Commission repeatedly rescinded and reinstated
3 Judge Fiore's suspension without pay based on the proposition that the guilty verdict alone was
4 insufficient to support discipline. In doing so, the Commission expressly acknowledges that the
5 verdict, standing alone, did not yet warrant moving forward under its own 60-day procedural
6 framework to file a Statement of Formal Charges. That determination is not incidental; it reflects
7 the Commission's own interpretation that additional legal predicates (sentencing) were required
8 before formal disciplinary action could proceed.

9 Despite that prior position, the Commission has now reversed course and proceeded based
10 on the same guilty verdict, notwithstanding the passage of time (well beyond 60 days) and without
11 any clear explanation reconciling its earlier determinations of prematurity. The result is a
12 fundamentally unstable procedural posture: the Commission first determined that the verdict alone
13 was insufficient to proceed yet now relies on that same verdict as a standalone basis for discipline.
14 This shifting position undermines the predictability and fairness required by due process under the
15 Fourteenth Amendment to the United States Constitution and Article 1, Section 8 of the Nevada
16 Constitution.

17 *c) The Commission's Rescission of Suspension Following the*
18 *Pardon Underscores the Lack of a Consistent Disciplinary Theory*

19 The Commission's procedural inconsistency is further demonstrated by its handling of the
20 suspension without pay in light of the subsequent pardon. Initially, the Commission imposed a
21 suspension without pay predicated on the jury's guilty verdict. However, following the issuance
22 of the pardon, the Commission ultimately rescinded that suspension.

23 This sequence of actions underscores the absence of a stable or coherent disciplinary
24 theory. If the guilty verdict alone was sufficient to justify discipline under Canon 1.1 or Canon 1.2,
25 then the intervening pardon would not logically alter the underlying basis for suspension, which
26 was purportedly grounded in the verdict itself rather than the continued legal effect of the
27 conviction. The Commission's decision to rescind the suspension after the pardon demonstrates
28 that the jury verdict could not be the basis for discipline.

1 The Commission's shifting position, rescinding the suspension premised on the guilty
2 verdict following the pardon, while now relying on that same verdict as the predicate for Count
3 Three reflects not a coherent application of defined standards, but an evolving and internally
4 inconsistent theory of discipline. This lack of consistency undermines the reliability of the
5 proceedings and calls into question whether the Commission is applying its rules in a principled
6 and predictable manner as due process requires.

7 This inconsistency further reinforces the due process concern that Judge Fiore has not been
8 provided clear, predictable notice of the precise basis for the Commission's actions at each stage
9 of the proceedings, as required by the United States and Nevada Constitutions.

10 **IV.**

11 **CONCLUSION**

12 The Commission's authority is not limitless, and due process is not optional. The Formal
13 Statement of Charges attempts to discipline Judge Fiore for alleged private conduct completed
14 before she ever took the bench, without identifying any independent post-investiture misconduct,
15 any enforceable legal duty, or any clearly articulated statutory basis for discipline under NRS
16 1.4653. In doing so, the Commission endorses an unprecedented and boundless theory of judicial
17 discipline untethered to the text of NRS Chapter 1, the Revised Nevada Code of Judicial Conduct,
18 or the PRJDC. The Constitution does not permit disciplinary proceedings found on ambiguity,
19 shifting theories, retroactive expansion of jurisdiction, or alleged obligations that do not exist in
20 law. Because the Commission lacks jurisdiction, because the Charges fail to state a cognizable
21 claim, and because the proceedings as pled violate fundamental due process, the Statement of
22 Formal Charges must be dismissed with prejudice in its entirety.

23 Dated this 15th day of May, 2026.

24 CLARK HILL PLLC

25 
26 PAOLA M. ARMENI

27 Nevada Bar No. 8357

1700 South Pavilion Center Drive, Suite 500

Las Vegas, Nevada 89135

Tel: (702) 862-8300

28 Attorney for Respondent, *The Honorable Michele Fiore*

