



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

BEFORE THE NEVADA COMMISSION ON JUDICIAL DISCIPLINE

STATE OF NEVADA

In the Matter of the,

COMMISSION CASE NO. 2025-108

HONORABLE MICHELE FIORE

Judge, Pahrump Township, County of Nye, State
of Nevada

Respondent.

**THE HONORABLE JUDGE MICHELE FIORE'S MOTION TO DISQUALIFY
COMMISSIONERS STEFANIE HUMPHREY, JOHN KRMPOTIC AND JOSEPH
SANFORD DUE TO THE APPEARANCE OF IMPROPRIETY AND BIAS WHICH
CONSTITUTES A VIOLATION OF DUE PROCESS IF THEY REMAIN ON THE
PANEL**

Respondent Michele Fiore, through her counsel of record, Paola M. Armeni, Esq., of Clark Hill PLLC, moves under PRJDC 38.4, the Due Process Clause of the Fourteenth Amendment to the United States Constitution, and Article 1, Section 8 of the Nevada Constitution to disqualify Chair Stefanie Humphrey, Vice Chair John Krmpotic, and Commissioner Joseph Sanford from the panel assigned to adjudicate this matter.¹ Each is a gubernatorial appointee² of Governor Joe Lombardo—an identified witness in this disciplinary proceeding and a witness in the prior federal

¹ On June 16, 2026, the Commission entered its Order Setting Public Hearing and Notice of Panel Members. As outlined in the Order, the following panelists are scheduled to participate as members of the Commission: Stefanie Humphrey (Chair), John Krmpotic (Vice Chair), Karl Armstrong, Esq., Patricia Halstead, Esq., Joseph Sanford, Hon. Kendra Bertschy (Presiding Officer), and Hon. Barbara Schifalacqua.

² Lay members of the Commission are appointed by the Governor pursuant to the Nevada Constitution, Article 6, Section 21. Further, the Commission's own website acknowledges Governor appointment of these individuals. See *Commission Openings*, https://judicial.nv.gov/Discipline/Member_Openings/ (last visited July 30, 2026).

1 proceeding on which the Commission continues to rely.

2 The constitutional inquiry is not whether these commissioners harbor actual personal
3 animus toward Judge Fiore, nor whether Governor Lombardo directed, influenced, or
4 communicated with them about this proceeding. The dispositive question is objective: whether a
5 reasonable observer could be confident in the impartiality of a tribunal that includes adjudicators
6 appointed by a person whose testimony bears directly on the allegations before them. This is not a
7 case in which a governor merely performed a routine appointment function. Governor Lombardo
8 was identified as a victim and testified in the prior federal proceeding against Judge Fiore. The
9 Commission now asks his appointees to judge her in a disciplinary matter arising from substantially
10 the same factual allegations.

11 That convergence creates an intolerable appearance of partiality and undermines public
12 confidence in the tribunal's neutrality. Longstanding Supreme Court precedent holds that due
13 process is violated when objective circumstances create a probability of bias too great to be
14 constitutionally tolerated. Those circumstances are present here. Chair Humphrey, Vice Chair
15 Krmpotic, and Commissioner Sanford therefore must be disqualified.

16 **MEMORANDUM OF POINTS AND AUTHORITIES**

17 **I. FACTUAL BACKGROUND**

18 The disciplinary allegations against Judge Michele Fiore arise from similar allegations that
19 formed the basis of the prior federal proceeding styled *United States v. Fiore*, Case No. 2:24-cr-
20 00155-JAD-DJA, in the United States District Court for the District of Nevada. Governor Joseph
21 Lombardo was a named victim in the prior federal proceeding. Further, he testified on September
22 30, 2024, during Day 5 of the jury trial. *See* ECF No. 90, at 7-40.³

23 Lombardo's testimony was not *de minimis*. He was not merely a witness who authenticated
24 a document or provided background information. Rather, he was an accuser who provided direct
25 testimony regarding Judge's Fiore's alleged solicitation of funds, her alleged representations
26 concerning the purpose of those funds, and his own understanding of how the funds were to be

27 ³ The Commission unilaterally obtained copies of the trial transcripts and has repeatedly indicated
28 that it is relying on said transcripts to determine its imposition of discipline in this matter.

1 used. Those issues go directly to the factual narrative underlying both the federal prosecution and
2 the disciplinary charges presently before the Commission.

3 At the outset of his testimony, the Government established that he was the Governor of the
4 State of Nevada, had previously served as Sheriff of Clark County from 2014 through 2022, and
5 spent 26 years with the Las Vegas Metropolitan Police Department. ECF No. 90 at 7:21-25; 8:1-2.
6 Governor Lombardo then testified regarding his relationship with Judge Fiore and his involvement
7 in matters relating to the Alyn Beck Memorial Park and memorial statue project. He testified that
8 Judge Fiore and developer Garry Goett informed him of plans to construct a park honoring Officer
9 Alyn Beck. *Id.* at 9:7-11. He further testified that Judge Fiore advised him she intended to raise
10 funds for statues honoring Officers Alyn Beck and Igor Soldo and that she conveyed to him that
11 she would undertake fundraising efforts for those memorials. *Id.* at 12:14-16.

12 The Government also elicited testimony concerning a \$5,000 donation made by Governor
13 Lombardo's re-elect Sheriff Lombardo campaign account to Future for Nevadans. When asked who
14 solicited that contribution, Governor Lombardo testified, "That would have been Michele Fiore."
15 *Id.* at 14:24-25; 15:1. He further testified that he believed the contribution would be used for the
16 Alyn Beck statue and that he would not have authorized the donation had he understood it would
17 be used for political or personal purposes. *Id.* at 15:10-24. At the same time, Governor Lombardo
18 acknowledged on cross-examination that he had spoken with the FBI twice, had not provided
19 investigators with any emails, text messages, correspondence, or other documents relating to the
20 donation, and could not recall whether the communications he described occurred through text
21 messages, telephone conversations, or some other means. *Id.* at 17:1-19; 15:6-9.

22 Significantly, the relevance of Governor Lombardo's testimony is not merely historical. His
23 credibility, recollection, and version of events became the subject of subsequent litigation in the
24 federal criminal proceedings. Following trial, Judge Fiore challenged Governor Lombardo's
25 testimony in a Motion for New Trial, asserting that his trial testimony materially differed from
26 statements he previously provided to federal investigators and prosecutors. See ECF No. 97 at 27-
27 29. Specifically, Judge Fiore argued that Governor Lombardo previously advised investigators that,
28 although he recalled discussing the Alyn Beck project with Judge Fiore during the park

1 groundbreaking ceremony, he did not recall Judge Fiore subsequently contacting him to solicit a
2 donation. According to the motion, Governor Lombardo instead advised investigators that Jay
3 Brown contacted him regarding the contribution. *Id.* Judge Fiore further argued that federal
4 prosecutors failed to correct testimony they allegedly knew or should have known was inconsistent
5 with prior statements and that trial counsel was ineffective for failing to impeach Governor
6 Lombardo through those prior statements and the testimony of Special Agent Kyle Jaski, who was
7 present during the relevant interview. *Id.*

8 Whether those arguments ultimately succeeded is beside the point. The constitutional
9 significance lies in the fact that Governor Lombardo's testimony did not go unchallenged. Rather,
10 his credibility, memory, and account of material events became disputed issues arising directly
11 from the same factual circumstances now before this Commission. As a result, any tribunal
12 evaluating the underlying allegations necessarily confronts a record in which Governor Lombardo's
13 testimony carries substantive evidentiary significance and remains intertwined with contested
14 factual issues.

15 This case therefore differs substantially from circumstances in which an appointing
16 authority has only a remote or tangential connection to the events at issue. Here, the appointing
17 authority was a named victim, personally testified as a substantive witness, his testimony was relied
18 upon by the prosecution, and the credibility and accuracy of that testimony subsequently became
19 the subject of impeachment arguments and post-trial litigation. Under these circumstances, a
20 reasonable observer could question whether commissioners appointed by Governor Lombardo can
21 adjudicate matters requiring consideration of facts, issues, and evidence in which the Governor
22 himself participated as a witness. That concern is amplified where the Commission has
23 independently obtained and indicated its intent to rely upon the federal trial transcripts containing
24 Governor Lombardo's testimony. Accordingly, the participation of gubernatorial appointees in
25 these proceedings creates an appearance of impropriety and raises substantial concerns regarding
26 the fairness, neutrality, and public legitimacy of the disciplinary process.

II. LEGAL ARGUMENT

a. Legal Standard

PRJDC 38.4 permits disqualification of a Commission member based upon actual bias, implied bias, prejudice, or circumstances that create an appearance of impropriety inconsistent with public confidence in the Commission's ability to fairly adjudicate the matter. The rule expressly authorizes disqualification whenever a commissioner would be prevented from adjudicating the matter in a fair and impartial manner or in a manner consistent with public confidence in the Commission.

The United States Supreme Court has long recognized and repeatedly held that “[a] fair trial in a fair tribunal is a basic requirement of due process.” *In re Murchison*, 349 U.S. 133, 136 (1955).

Fairness of course requires an absence of actual bias in the trial of cases. But our system of law has always endeavored to prevent *even the probability of unfairness*. To this end no man can be a judge in his own case and no man is permitted to try cases where he has an interest in the outcome. That interest cannot be defined with precision. *Circumstances and relationships must be considered*.

Id. at 136 (emphasis added). Likewise, administrative tribunals exercising adjudicatory authority are subject to the same constitutional requirement of neutrality applicable to courts. *Withrow v. Larkin*, 421 U.S. 35, 46, 95 S. Ct. 1456, 43 L. Ed. 2d 712 (1975). “Not only is a biased decisionmaker constitutionally unacceptable but ‘our system of law has always endeavored to prevent even the probability of unfairness.’” *Id.* (internal citations omitted). Various situations have been identified in which the probability of actual bias on the part of the decisionmaker is too high to be constitutionally intolerable. *Id.* The Due Process Clause requires recusal not only where actual bias is demonstrated, but also where, viewed objectively, “the probability of actual bias on the part of the judge or decisionmaker is too high to be constitutionally tolerable.” 556 U.S. 868, 877 (2009) (quoting *Withrow v. Larkin*, 421 U.S. 35, 47 (1975)). Administrative adjudicators ordinarily are afforded a presumption of honesty and integrity. However, that presumption may be overcome where the particular facts create a constitutionally intolerable risk of bias or prejudgment. *Withrow*, 421 U.S. at 47, 95 S.Ct. 1456.

1 The Supreme Court explained that courts must look to the “special facts and circumstances”
2 of the case to determine whether the probability of unfairness is too high to be constitutionally
3 acceptable. *Withrow*, 421 U.S. at 58. Numerous courts have recognized that when adjudicatory
4 proceedings present structural concerns affecting neutrality, the resulting due process violation
5 constitutes structural error because the right to an impartial decisionmaker is among the most
6 fundamental constitutional guarantees. This case presents such special circumstances.

7 **b. The Combination of Governor Lombardo’s Role as A Named Victim, Material**
8 **Witness and The Participation of His Appointees Creates a Constitutionally**
9 **Intolerable Probability of Bias.⁴**

10 Special facts and circumstances exist here that demonstrate the probability of unfairness is
11 so high that it cannot be constitutionally acceptable.

12 **i. Governor Lombardo’s Personal Involvement as a Named Victim and**
13 **Witness Creates an Intolerable Appearance of Partiality**

14 The due process concerns presented here are extraordinary. This is not a situation where a
15 governor merely exercised routine appointment authority over members of an administrative
16 tribunal. Rather, the due process problem arises because Governor Lombardo was identified as a
17 victim and as such personally participated in the prior federal proceedings as a witness against
18 Judge Fiore. His testimony was presented by federal prosecutors in support of their case. He was
19 not a remote or peripheral witness. He was an integral witness in the government's case.

20 Equally significant, the accuracy and reliability of Governor Lombardo's testimony became
21 a matter of controversy because portions of his testimony were inconsistent with statements
22 previously provided to federal investigators. Consequently, issues concerning Governor
23 Lombardo's recollection, and version of events became intertwined with the allegations arising
24 from the prior federal proceedings. The significance of Governor Lombardo’s role cannot be
25 minimized. The government elected to call him as a witness because it considered his testimony
26 material to its prosecution of Judge Fiore.

27 The Commission may contend that gubernatorial appointment alone cannot create a due
28

⁴ By filing the instant Motion, Judge Fiore does not waive any future arguments to limit Governor Lombardo’s prior testimony.

1 process violation. Judge Fiore agrees. This motion does not rest upon appointment authority in
2 isolation. If it did, governors' appointees could rarely adjudicate matters involving state officials.
3 Rather, the constitutional concern arises from the convergence of multiple unusual circumstances:

- 4 1. Governor Lombardo was a named victim;
- 5 2. Governor Lombardo personally testified as a substantive prosecution witness;
- 6 3. his testimony was offered to establish facts central to the allegations against
7 Judge Fiore;
- 8 4. the recollection and accuracy of that testimony later became the subject of post-
9 trial litigation;
- 10 5. the Commission has independently obtained and reviewed the federal trial
11 transcripts containing that testimony; and
- 12 6. several decisionmakers who will adjudicate discipline were appointed by
13 Governor Lombardo himself.

14 It is the cumulative effect of these extraordinary circumstances, not any single fact in
15 isolation, that gives rise to the present due process violation.

16 Here, *Caperton v. A.T. Massey Coal Co.*, 556 U.S. 868, 129 S. Ct. 2252, 173 L. Ed. 2d 1208
17 (2009) and the cases it relies upon is instructive. In *Caperton*, the Supreme Court reaffirmed that
18 due process protects litigants not only from demonstrably biased decisionmakers but also from
19 tribunals presenting an objectively intolerable risk of bias. The Court explained that the
20 constitutional inquiry is not whether a decisionmaker is actually prejudiced or subjectively believes
21 himself to be impartial. Instead, courts must determine whether, under a realistic appraisal of
22 psychological tendencies and human weakness, the circumstances create a probability of bias “too
23 high to be constitutionally tolerable.” *Caperton*, 556 U.S. 868 at 877.

24 In reaching its conclusion, the Court relied upon a line of decisions recognizing that due
25 process is violated where objective circumstances create a “possible temptation” for the average
26 adjudicator not to “hold the balance nice, clear and true.” *Caperton*, 556 U.S. at 878-79, 886
27 (quoting *Tumey v. Ohio*, 273 U.S. 510, 532 (1927)); *see also Ward v. Monroeville*, 409 U.S. 57
28 (1972) (Where mayor before whom petitioner was compelled to stand trial for traffic offenses was
responsible for village finances, and mayor's court through fines, forfeitures, costs and fees,
provided a substantial portion of the village funds, petitioner was denied a trial before a
disinterested and impartial judicial officer as guaranteed by the due process clause); *Aetna Life Ins.*

1 *Co. v. Lavoie*, 475 U.S. 813 (1986) (Insurer's rights under due process clause of Fourteenth
2 Amendment were violated by Justice's participation in action seeking punitive damages for insurer's
3 alleged bad-faith refusal to pay valid claim, where Justice had pending at least one very similar bad
4 faith refusal-to-pay lawsuit against an insurer in another state court.). The Court emphasized that
5 the test is objective and does not require proof that the adjudicator was in fact influenced. Rather,
6 due process is offended when experience teaches that the risk of actual bias is unconstitutionally
7 high. *Caperton*, 556 U.S. at 876-79.

8 The Supreme Court further explained that circumstances and relationships must be
9 examined to determine whether a decisionmaker can remain "wholly disinterested" in the outcome.
10 *Caperton*, 556 U.S. at 880-81 (discussing *In re Murchison*, 349 U.S. 133 (1955)). The Court
11 similarly discussed *Mayberry v. Pennsylvania*, 400 U.S. 455, 91 S.Ct. 499, analyzing a relationship
12 between a judge and defendant, emphasizing that the inquiry is not whether the decisionmaker is
13 actually biased, but whether the average adjudicator in the same position is likely to remain neutral
14 or instead faces an unconstitutional potential for bias. *Caperton*, 556 U.S. at 881-82.

15 Applying those principles, the Supreme Court held that due process required recusal where
16 objective circumstances created a serious risk of actual bias, notwithstanding the absence of any
17 finding of actual prejudice. The Court specifically rejected reliance on a decisionmaker's own
18 assessment of his impartiality, explaining that the Constitution employs objective standards
19 because self-assessment cannot adequately protect against unconscious influences and institutional
20 loyalties. *Caperton*, 556 U.S. at 882-84. Thus, the relevant question is not whether a particular
21 adjudicator believes he or she can be fair, but whether a reasonable observer would conclude that
22 the surrounding circumstances create a constitutionally unacceptable probability of bias.

23 The teachings of *Caperton* are directly applicable. Governor Lombardo was not a remote
24 political actor, exercising generalized appointment authority. He was a named victim whose
25 testimony was offered by federal prosecutors to establish the purpose of donations, the
26 representations allegedly made by Judge Fiore, and the donors' understanding of how those funds
27 would be used. Those issues directly overlap with the factual foundation of the disciplinary
28 allegations presently before the Commission. Moreover, unlike many cases involving public

1 officials, Governor Lombardo's testimony did not pass through the proceedings unquestioned.
2 Judge Fiore specifically challenged the consistency and reliability of that testimony in post-trial
3 motions. Thus, the Governor's recollection became a litigated issue arising from the very
4 controversy now before the Commission.

5 Under these circumstances, a reasonable member of the public could question whether
6 commissioners appointed by Governor Lombardo are being placed in the position of evaluating
7 allegations that necessarily implicate the credibility, significance, and effect of testimony provided
8 by the individual responsible for their appointment. Due process protects against precisely these
9 kinds of objective concerns because public confidence in adjudicative neutrality depends not only
10 upon actual fairness but also upon the appearance of fairness. See *Murchison*, 349 U.S. at 136;
11 *Caperton*, 556 U.S. at 883-84.

12 **ii. The Commission's Reliance Upon The Federal Trial Record Magnifies**
13 **The Constitutional Defect**

14 The due process concern is not hypothetical. The Commission independently obtained the
15 federal trial transcripts and has repeatedly indicated that it has relied upon those transcripts. Further,
16 the transcripts have been identified as an exhibit for the discipline hearing. Thus, the Commission
17 affirmatively intends to consider and evaluate a record that includes Governor Lombardo's sworn
18 testimony. Even if the prior testimony is not used, Governor Lombardo has been identified as a
19 witness for the discipline hearing so the same problems arise.

20 Consequently, gubernatorial appointees are not being asked merely to adjudicate a matter
21 involving an official who appointed them. They are being asked to evaluate allegations supported,
22 in part, by testimony given by that appointing authority himself. Even if every commissioner acts
23 with complete good faith, these circumstances create an objective appearance problem that cannot
24 be ignored. Public confidence in the disciplinary process is undermined whenever the tribunal
25 appears positioned to assess a controversy in which the appointing authority personally participated
26 as a witness.

27 **iii. The Appearance of Impropriety and Public Confidence in the Integrity**
28 **of the Process Requires Disqualification**

PRJDC 38.4, titled "Challenges for Cause" expressly authorizes disqualification where a

1 member's participation would create an appearance of impropriety or otherwise undermine public
2 confidence in the Commission's ability to adjudicate fairly. A challenge for cause may be taken on
3 any of the grounds relating to jurors enumerated in NRS 16.050. Pursuant to NRS 16.050,
4 challenges for cause may be taken on one or more of the following grounds:

5 (a) A want of any of the qualifications prescribed by statute to render a
6 person competent as a juror.

7 (b) Consanguinity or affinity within the third degree to either party.

8 (c) Standing in the relation of debtor and creditor, guardian and
9 protected person, master and servant, employer and clerk, or principal and agent, to
10 either party, being a member of the family of either party or a partner, or united in
11 business with either party, or being security on any bond or obligation for either
12 party.

13 (d) *Having served as a juror or been a witness on a previous trial*
14 *between the same parties for the same cause of action or being then a witness*
15 *therein.*

16 (e) *Interest on the part of the juror in the event of the action, or in the*
17 *main question involved in the action, except the interest of the juror as a member*
18 *or citizen of a municipal corporation.*

19 (f) Having formed or expressed an unqualified opinion or belief as to
20 the merits of the action, or the main question involved therein, but the reading of
21 newspaper accounts of the subject matter before the court shall not disqualify a juror
22 either for bias or opinion.

23 (g) *The existence of a state of mind in the juror evincing enmity*
24 *against or bias to either party.*

25 2. A challenge for cause for standing in the relation of debtor and
26 creditor when the party to an action is a public utility as defined in NRS
27 704.020 may be allowed only where the circumstances as determined by the court
28 so warrant.

NRS 16.050 (emphasis added). Here, public confidence cannot be maintained where:

1. the Governor was a named victim in the prior federal proceeding;
2. the Governor served as a material witness against the Respondent in the prior federal proceeding;
3. the Commission's charges arise from the same factual circumstances;
4. the Governor's testimony and recollection became disputed issues in the underlying proceedings;
5. several panel members owe their appointments to Governor Lombardo; and
6. those commissioners are now being asked to adjudicate allegations based on the prior federal proceeding.

1 The appearance concerns are further amplified by the practical interests implicated in these
2 proceedings. The Commission has repeatedly relied upon the premise that donors were not repaid
3 and that funds solicited for memorial purposes were diverted to other uses. Governor Lombardo
4 was one of the donors upon whose testimony the federal prosecution relied on to establish that
5 theory. Although the contribution at issue originated from a campaign account, Governor
6 Lombardo nevertheless remains identified as a purported victim of the conduct underlying both the
7 federal case and these disciplinary proceedings. The Commission's ultimate findings will
8 necessarily reflect upon the accuracy, significance, and reliability of Governor Lombardo's
9 testimony concerning the donation, the representations allegedly made to him, and his
10 understanding of how those funds would be used.

11 Thus, the concern presented here extends beyond a generalized political relationship.
12 Governor Lombardo has a direct personal interest in the validation of testimony he provided under
13 oath and in the acceptance of the factual narrative advanced through that testimony. Because several
14 members of the Commission serve by virtue of gubernatorial appointment, a reasonable observer
15 could question whether those members may consciously or unconsciously be influenced when
16 adjudicating allegations that place their appointing authority's recollection, and version of events at
17 issue. Such circumstances implicate both NRS 16.050(e), concerning an interest in the event of the
18 action or the principal question involved, and NRS 16.050(g), concerning circumstances evincing
19 partiality or bias.

20 Moreover, NRS 16.050(d) is particularly instructive. The statute recognizes that
21 participation as a witness in the same controversy creates a relationship to the proceedings
22 incompatible with detached adjudication. While Governor Lombardo is not himself serving as a
23 commissioner, several commissioners presently sit by virtue of his appointment authority. Where
24 those commissioners are asked to adjudicate a matter arising from the same underlining facts in
25 which their appointing authority testified as a substantive witness, and where the Commission
26 intends to rely upon that testimony in determining discipline, public confidence in the impartiality
27 of the tribunal is necessarily diminished.

1 **c. The Constitutional Defect Is Structural and Cannot Be Cured Through**
2 **Harmless Error Analysis**

3 The right to a fair hearing before a neutral and detached decision-maker is among the most
4 fundamental protections secured by the Due Process Clause. The United States Supreme Court has
5 repeatedly recognized that where the constitutionality of a proceeding is compromised by the
6 identity or composition of the tribunal itself, the resulting error is structural in nature because it
7 infects the entire adjudicative process. *See In re Murchison*, 349 U.S. 133, 136 (1955); *Caperton*
8 *v. A.T. Massey Coal Co.*, 556 U.S. 868, 876-77 (2009).

9 Unlike ordinary evidentiary or procedural errors, a tribunal tainted by an intolerable
10 probability of bias cannot be evaluated through harmless-error principles because the constitutional
11 injury occurs at the moment the proceeding is conducted before a decisionmaker whose impartiality
12 may reasonably be questioned. The error does not arise from a particular ruling, evidentiary
13 determination, or factual finding. Rather, it stems from the adjudicative structure itself. Once the
14 tribunal is constitutionally compromised, every subsequent act of the proceeding occurs under a
15 cloud of partiality that cannot later be separated from the ultimate outcome.

16 The Supreme Court has consistently refused to require proof of actual prejudice in such
17 circumstances because the influence of bias is inherently unknowable. Those principles apply with
18 particular force here. The constitutional concern presented is not a discrete evidentiary issue
19 capable of appellate review. Rather, the challenge goes to the neutrality of the tribunal itself. If
20 discipline is ultimately imposed, no reviewing court could meaningfully determine whether the
21 decision was influenced by conscious bias, subconscious institutional loyalty, concerns regarding
22 the credibility of the appointing authority, or any other impermissible consideration. As a result,
23 the effects of the constitutional defect are incapable of measurement after the fact.

24 For that reason, courts characterize adjudications conducted before constitutionally
25 compromised tribunals as structural errors requiring automatic reversal without any showing of
26 specific prejudice. *See, e.g., Williams v. Pennsylvania*, 579 U.S. 1, 14-15 (2016) (holding that an
27 unconstitutional failure to recuse constitutes structural error not subject to harmless-error analysis);
28 *Murchison*, 349 U.S. at 136. Because the constitutional injury here derives from the composition

1 of the tribunal itself, the defect cannot be cured through assurances of impartiality, harmless-error
2 review, or post hoc appellate scrutiny. Once public confidence in the neutrality of the
3 decisionmaker is undermined, the legitimacy of the proceeding is irreparably compromised.
4 Therefore, the disqualification of Chair Stefanie Humphrey, Vice Chair John Krmpotic and John
5 Sanford from the Commission panel is appropriate here.

6 **III. CONCLUSION**

7 Ultimately, the question before this Court is not whether any commissioner subjectively
8 believes he or she can remain impartial. The question is whether an objective observer, aware that
9 Governor Lombardo was a named victim, testified as a witness in the prior federal proceeding and
10 is a listed as a current witness in underlying matter, aware that the accuracy of that testimony
11 became the subject of post-trial litigation, aware that the Commission intends to rely upon the
12 transcripts containing that testimony, and aware that several adjudicators owe their appointments
13 to Governor Lombardo, would harbor reasonable doubts regarding the neutrality of the tribunal.
14 Under *Murchison*, *Withrow*, and *Caperton*, the answer is yes. Accordingly, the Honorable Judge
15 Fiore respectfully requests this Motion be granted.

16
17 Dated this 31st day of August, 2026.

18 **CLARK HILL PLLC**

19 /s/ Paola M. Armeni

20 PAOLA M. ARMENI

21 Nevada Bar No. 8357

22 1700 South Pavilion Center Drive, Suite 500

23 Las Vegas, Nevada 89135

24 Tel: (702) 862-8300

25 Attorney for Respondent, *The Honorable Michele Fiore*

1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8

STATE OF NEVADA)
) ss:
COUNTY OF CLARK)

I, Paola M. Armeni, Esq., declare under penalty of perjury the laws of the State of Nevada that the following is true and correct:

1. I am an attorney with the law firm of Clark Hill PLLC, counsel for Respondent, the Honorable Michele Fiore, in the above-referenced matter.

2. The factual statements made herein are within my personal knowledge and are true and correct. If called upon to testify about these matters, I could competently testify to them.

3. I have personal knowledge of the facts set forth herein, except to those matters set forth based upon information and belief, and so to those matters, I believe them to be true and correct. This declaration is made in support of The Honorable Judge Michele Fiore's Motion to Disqualify Commissioners Stefanie Humphry, John Krmpotic and Joseph Sanford Due to the Appearance of Impropriety and Bias Which Constitutes a Violation of Due Process if They Remain on the Panel.

4. Chair Stefanie Humphrey, Vice Chair John Krmpotic and John Sanford are lay members of the Commission. Lay members are appointed by the Governor pursuant to the Nevada Constitution, Article 6, Section 21. The Commission's own website acknowledges Governor appointment of these individuals. See *Commission Openings*, https://judicial.nv.gov/Discipline/Member_Openings/ (last visited July 30, 2026).

5. This Motion is based on the violation of Judge Michele Fiore's due process right to a fair and impartial tribunal if the three lay members remain on the current disciplinary panel. Because Governor Lombardo appointed the three lay members of the Commission panel, and because the Commission has indicated it will rely on transcripts containing his testimony and/or live testimony of Governor Lombardo, the circumstances create an objectively intolerable appearance and probability of bias. Under established due process principles, a proceeding conducted before a tribunal whose impartiality may reasonably be questioned cannot satisfy

1 constitutional requirements, warranting disqualification of the panel and dismissal of the
2 disciplinary action.

3 6. This Motion has merit and this Motion is not made for purposes of delay or
4 harassment.

5 Dated this 31st day of August, 2026.

6 /s/ Paola M. Armeni
7 PAOLA M. ARMENI

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Thomas J. Donaldson
1817 N. Stewart Street, Ste. 35
Carson City, Nevada 89706
Email: tom@majlabor.com

Special Counsel for the Nevada
Commission on Judicial Discipline

11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28