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

15 IN THE MATTER OF THE HONORABLE,
16 MICHELE FIORE, Justice of the Peace,
17 Pahrump Township Justice Court, Nye
18 County, State of Nevada,

Case No.: 2025-108-P

19 Respondent.

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22 **MOTION IN LIMINE TO EXCLUDE TESTIMONY OF KEITH R. FISHER**
23 **AND EXPERT STATEMENT OF KEITH R. FISHER**

24 COMES NOW Thomas J. Donaldson, Special Counsel for the Nevada Commission on
25 Judicial Discipline ("Commission" or "NCJD"), and hereby moves to exclude the testimony of Keith
26 R. Fisher and his Expert Statement from the hearing in this matter set for October 19-22, 2026. The
27 instant motion is made pursuant to PRJDC 24, PRJDC 38.2 and NRS 48.015 *et seq.* and based upon
28 the following memorandum of points and authorities and the pleadings and papers on file herein.

Memorandum of Points and Authorities

On May 28, 2026, in Respondent's Initial Disclosure, Respondent identified Keith R. Fisher as a potential expert witness without any further information. Nearly sixteen (16) weeks later, on September 16, 2026, Respondent produced Mr. Fisher's "Expert Statement" in her First Supplemental Disclosure. Further, Respondent recently filed a Motion for Expert Keith Fisher to Testify Remotely ("Motion"), which includes a copy of Mr. Fisher's statement as Exhibit 1.¹ However, Mr. Fisher's proffered testimony and report have no tendency to make the existence of any

¹ Special Counsel has not yet filed an opposition to Respondent's most recent motion.

1 fact that is of consequence to the determination of this action more or less probable than it would be
2 without the evidence. Therefore, his testimony and report should be excluded by the Commission.

3 The rules of evidence applicable to civil proceedings apply at the hearing on
4 October 19-22, 2026. PRJDC 24. "Relevant evidence" means evidence having any tendency to
5 make the existence of any fact that is of consequence to the determination of the action more or less
6 probable than it would be without the evidence. Evidence which is not relevant is not admissible.
7 NRS 48.025(2). Alternatively, although relevant, evidence is not admissible if its probative value
8 is substantially outweighed by the danger of unfair prejudice or of confusion of the issues.
9 NRS 48.035(1). Further, although relevant, evidence may be excluded if its probative value is
10 substantially outweighed by considerations of a waste of time. NRS 48.035(2). Finally, if scientific,
11 technical or other specialized knowledge will assist the trier of fact to understand the evidence or to
12 determine a fact in issue, a witness qualified as an expert by special knowledge, skill, experience,
13 training or education may testify to matters within the scope of such knowledge. NRS 50.275.

14 Here, in the report, Mr. Fisher, on behalf of Respondent, is, once again, needlessly arguing
15 the "Jurisdictional Defects in the Charges," the "Legal Insufficiency of the Charges and Amended
16 Charges" and the "Potential Procedural Defaults by the Commission."² Motion, Exhibit 1, pp. 9-31.
17 Based upon the content of Mr. Fisher's report, his "expertise" is dubious. First, Mr. Fisher claims
18 that the Commission cannot rely upon Respondent's misconduct that antedates judicial office. *Id.*,
19 pp. 10-12. Yet, he completely ignores the majority rule in the United States that judges may be
20 disciplined - including by removal from office - for conduct that occurred before they assumed the
21 bench. Courts and judicial conduct commissions in New York, Pennsylvania, Florida, Nebraska,
22 Alabama, and Louisiana have all recognized this authority, grounding it in constitutional provisions
23 authorizing discipline for conduct that renders a judge unfit for office or is prejudicial to the
24 administration of justice. *Matter of Sarisohn*, 26 A.D.2d 388, 390 (2d Dep't 1966); *In re Hedges*,
25 2012 WL 4341141 (N.Y. Comm'n on Jud. Conduct 2012); *Doe v. State Commission on Judicial*
26 *Conduct*, 137 Misc. 2d 268, 520 N.Y.S.2d 513 (Sup. Ct. 1987); *In re Greenberg*, 442 Pa. 411, 280

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28 ² Incredibly, Mr. Fisher resorts to insulting Special Counsel and accusing Special Counsel to
be on the "verge [of] prosecutorial misconduct." Motion, Exhibit 1, p. 22, #50, p. 27, #56.

1 A.2d 370 (1971); *Matter of Cunningham*, 517 Pa. 417, 538 A.2d 473 (1988); *In re Pazuhanich*, 858
2 A.2d 231 (Pa. Ct. Jud. Disc. 2004); *In re Davey*, 645 So. 2d 398, 403 (Fla. 1994); *In re Watson*, 174
3 So. 3d 364 (Fla. 2015); *In re Henson*, 913 So. 2d 579, 588 (Fla. 2005); *In re Decker*, 212 So. 3d 291
4 (Fla. 2017); *State ex rel. Nebraska State Bar Ass'n v. Krepela*, 259 Neb. 395, 610 N.W.2d 1 (2000);
5 *In re Steensland*, 2011 WL 9367407 (Ala. Ct. of Jud. 2011); *In re Todd*, 2021 WL 2653531 (Ala.
6 Ct. of Jud. 2021); *In re Whitaker*, 463 So.2d 1291 (La. 1985). The dominant rationale is that the
7 purpose of judicial discipline is not punishment, but the protection of the public and the integrity of
8 the judiciary, and that purpose is not defeated merely because the offending conduct predates the
9 judge's investiture. *Id.* The Commission already adopted the majority position in its Order Denying
10 Motion to Dismiss and Granting Leave to Amend Formal Statement of Charges dated July 31, 2026,
11 p. 10 at lines 23-26.

12 Further, Mr. Fisher contends, “nothing in the language of Article VI, Section 21 of the
13 Nevada Constitution, nothing in the Nevada statutes duly enacted pursuant to the authority conferred
14 in Nevada Const. art. VI, § 21, and nothing in the actual language of the [Nevada Code of Judicial
15 Conduct] (including, conspicuously, key terms sedulously defined therein) provides any grant of
16 authority to the Commission to conduct a proceeding based entirely on matters that took place before
17 a judge assumed judicial office.” Motion, Exhibit 1, p. 16, #41. Although Mr. Fisher claims that
18 he reviewed the Formal Statement of Charges and First Amended Formal Statement of Charges,
19 obviously, he could not comprehend the content of those charging documents since there are three
20 (3) counts, all of which rely upon misconduct by Respondent after she assumed judicial office on
21 or about December 21, 2022, including Jury Verdict dated October 3, 2024, finding Respondent
22 guilty of seven (7) felony criminal offenses. *Id.*, pp. 4-5. Interestingly, but not surprisingly, the Jury
23 Verdict was *not* one (1) of the documents he reviewed to write his report. *Id.*

24 Finally, Mr. Fisher incorrectly asserts in his report:

25 Count 3 of the Charges, which refers to the jury verdict, is nugatory. The effect of
26 the presidential pardon renders the jury verdict, like the rest of the federal court

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1 proceeding, a nullity. It cannot, therefore, be the basis for a claim of judicial
2 misconduct.

3 *Id.*, p. 27, #55. Clearly, Mr. Fisher is clueless about Nevada law and related judicial opinions from
4 other states.

5 In Nevada, “the effect of a pardon does not erase the historical fact of the conviction[.]” *In*
6 *re Sang Man Shin*, 125 Nev. 100, 110, 206 P.3d 91, 98 (2009). The Nevada Supreme Court has
7 specifically “retreat[ed] from [its] prior decisions . . . to the extent they imply that a pardon blots out
8 guilt and erases the historical fact of the underlying conviction.” *Id.* at 110, 206 P.3d at 97-98. In
9 doing so, the Court agreed with the rationale of federal appellate courts that a pardon “does nothing
10 more than to abolish all restrictions upon the liberty of the pardoned one,” but does not eliminate or
11 eradicate the finding of guilt. *Id.* at 107, 206 P.3d at 95 (citing *Groseclose v. Plummer*, 106 F.2d
12 311, 313 (9th Cir. 1939).

13 As these federal courts held, a presidential pardon does not reverse the legal conclusion of
14 the courts. See *Nixon v. United States*, 506 U.S. 224, 232 (1993) (“a pardon is in no sense an
15 overturning of a judgment of conviction”); *Hirschberg v. Commodity Futures Trading Comm’n*, 414
16 F.3d 679, 682 (7th Cir. 2005) (a pardon “does not blot out guilt or expunge a judgment of conviction”
17 (internal quotations omitted)). Nor can a pardon create a factual fiction that a guilty verdict did not
18 occur. *United States v. Noonan*, 906 F.2d 952, 958-59 (3d Cir. 1990). Instead, a pardon “preclude[s]
19 future *punishment* for the conviction,” but does “not prohibit all *consequences* of a pardoned
20 conviction.” *Hirschberg*, 414 F.3d at 682 (emphasis in original).

21 The Nevada Supreme Court has previously rejected Respondent’s argument that disciplinary
22 action is a “punishment” as opposed to a “consequence” of her pardon. In *In re Sang Man Shin*, the
23 Court relied upon *In re Abrams*, 689 A.2d 6 (D.C. 1997) and *Dixon v. McMullen*, 527 F. Supp. 711
24 (N.D. Tex. 1981) in support of its holding that a pardon of a criminal conviction does not “create[]
25 a civil right” to escape the consequences associated with the underlying verdict. 125 Nev. At 107-
26 110, 206 P.3d at 96-98.

27 Those cases, cited with approval and relied upon by the Court, are dispositive of Mr. Fisher’s
28 contention. Specifically, in *In re Abrams*, the D.C. Court of Appeals found that an attorney was

1 subject to discipline by the local bar association for a crime he pled guilty to, notwithstanding a
2 subsequent presidential pardon. 689 A.2d at 9-12. The court offered the following analogy:

3 Suppose that an alcoholic surgeon performs an operation while intoxicated. He
4 botches the surgery. The patient dies. The surgeon is convicted of manslaughter and
5 is sentenced to imprisonment. The President grants him a full and unconditional
6 pardon. According to Abrams, the surgeon now has the result, as a result of the
7 pardon, to continue to operate on other patients, without any interference from the
8 medical licensing authorities. The proposition that the alcoholic but pardoned
9 surgeon . . . cannot be disciplined is, in our view, altogether unacceptable and even
10 irrational

11 *Id.* at 10-11.

12 The court went on to note that while a pardon removes “all legal punishment,” “if character
13 is a necessary qualification and the commission of the crime would disqualify even though there had
14 been no criminal prosecution for the crime, the fact that the criminal has been convicted and
15 pardoned does not make him any more eligible.” *Id.* at 11 (internal quotations omitted). Similarly,
16 in *Dixon*, the Texas federal district court reasoned that a pardon “may remove some disabilities but
17 does not change the common-law principle that a conviction of an infamous offense is evidence of
18 bad character.” 527 F. Supp. at 718.

19 Other jurisdictions similarly hold that a pardon does not eliminate jurisdiction for discipline
20 by civil regulatory bodies. See *Feinstein v. State Bar of Cal.*, 248 P.2d 3, 7 (Cal. 1952) (a pardon
21 does not automatically mean that an attorney has complied with the “essentials required of an
22 attorney-at-law”); *Branch v. State*, 163 So. 48, 49 (Fla. 1935) (same); *Matter of Beck*, 342 N.E.2d
23 611, 614-15 (Ind. 1976) (pardons do not restore character or fitness to practice law); *In re Kaufmann*,
24 157 N.E. 730, 733 (N.Y. 1927) (a pardon does not “restore to the fellowship of the bar” if “there has
25 been a failure to live up to the standards of morality and honor”); *Hankamer v. Templin*, 187 S.W.2d
26 549, 550 (Tex. 1945) (pardon does not restore privilege to practice law). As these courts explain,
27 discipline is not “part of the punishment inflicted for the commission of crime,” but is instead a
28 consequence of “misconduct . . . which shows [them] to be a person unfit to engage in the practice
of law.” *Branch*, 163 So. at 49.

Similarly, here, the Commission’s proceedings are not a punishment, but a consequence. As
both the Nevada Supreme Court and other courts have held, the fact of a guilty verdict creates an

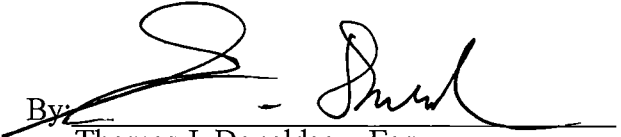
1 appearance of impropriety that warrants discipline of public officers. *See e.g., Egan v. Jones*, 21
2 Nev. 433, 32 P. 929, 930 (1893) (interpreting a former constitutional provision disqualifying those
3 who are “convicted” of bribery in elections from holding public office); *State v. Nix*, 249 N.E.3d
4 134, 142-43 (Ohio 2024) (Ohio’s judicial discipline statute disqualifies a person from holding public
5 office upon the return of a guilty verdict). As these courts explain, “[a]fter verdict of guilty . . . the
6 presumption of innocence ceases[.]” *Campbell v. State*, 781 S.W.2d 14, 17 (Ark. 1989) (internal
7 quotations omitted); *see also Wilson v. Goodwyn*, 522 F. Supp. 1214, 1215-16 (E.D.N.C. 1981)
8 (same). Thus, even when a conviction is later reversed (or here, pardoned), there is too great a risk
9 of “loss of public confidence in those who govern which inevitably accompanies the spectacle of
10 officeholders who have been found guilty of an offense which disqualifies them for public trust, yet
11 continue to hold the office[.]” *Campbell*, 781 S.W.2d at 18; *see also Lubin v. Wilson*, 284 Cal. Rptr.
12 70, 73 (Ct. App. 1991) (“[t]he statutory scheme [precluding convicted public officials from holding
13 office after trial court judgment] advances compelling interest for honesty, integrity and confidence
14 of the public in government, which is greater than the convicted person’s interest in the office.”).
15 Frankly, Mr. Fisher’s report is not worth the cost of the (31 pages) of paper he used to write it.

16 Bottom line, both the Nevada Supreme Court and the Commission have already considered
17 and decided the issues presented in the “Expert Statement.” Thus, the report has no tendency to make
18 the existence of any fact that is of consequence to the determination of the action more or less
19 probable than it would be without the evidence, and, hence, is not relevant and not admissible in
20 accordance with NRS 48.025(2). Alternatively, if the Commission finds the report relevant, it is not
21 admissible because its probative value is substantially outweighed by the danger of unfair prejudice
22 or of confusion of the issues at the hearing pursuant to NRS 48.035(1). Further, if the Commission
23 finds the report relevant, it should be excluded because its probative value is substantially
24 outweighed by considerations of a waste of time at the hearing pursuant to NRS 48.035(2). Finally,
25 Mr. Fisher, is qualified as an “expert,” he is incapable of offering any scientific, technical or other
26 specialized knowledge that will assist the Commission to understand the evidence or to determine
27 a fact in issue at the hearing in this matter pursuant to NRS 50.275. Therefore, Special Counsel
28 requests an order from the Commission excluding Mr. Fisher from testifying and excluding the

1 "Expert Statement of Keith R. Fisher" from being admissible in evidence at the hearing on
2 October 19-22, 2026.

3 DATED this 23rd day of September, 2026.

4 MESSING ADAM JASMINE & SHORE, LLP

5
6 By: 

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1 **CERTIFICATE OF SERVICE**

2 I hereby certify that a true and correct copy of this MOTION IN LIMINE TO EXCLUDE
3 TESTIMONY OF KEITH R. FISHER AND EXPERT STATEMENT OF KEITH R. FISHER
4 was sent via electronic mail addressed to:

5 Paola M. Armeni, Esq.
6 Clark Hill, PLLC
7 1700 S. Pavillion Center Dr., Ste. 500
8 Las Vegas, NV 89135
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10 Dated this 23rd day of September, 2026.

11 By: Kelly Gilbert
12 Kelly Gilbert
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