



1 PAOLA M. ARMENI
2 Nevada Bar No. 8357
3 GIA N. MARINA
4 Nevada Bar No. 15276
5 **CLARK HILL PLLC**
6 1700 South Pavilion Center Drive, Suite 500
7 Las Vegas, Nevada 89135
8 Tel: (702) 862-8300
9 Fax: (702) 778-9709
10 Email: parmeni@clarkhill.com
11 Email: gmarina@clarkhill.com
12 *Attorneys for Respondent, Michele Fiore*

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

9 **STATE OF NEVADA**

10 In the Matter of the,

COMMISSION CASE NO. 2025-108

11 HONORABLE MICHELE FIORE

12 Justice of the Peace, Pahrump Township, County
13 of Nye, State of Nevada

14 Respondent.

15
16 **THE HONORABLE JUDGE MICHELE FIORE'S OPPOSITION TO MOTION FOR**
17 **LEAVE TO ISSUE SUBPOENAS ON ORDER SHORTENING TIME**

18 Respondent, the Honorable Michele Fiore, by and through her attorneys of record Paola M.
19 Armeni, Esq. and Gia N. Marina, Esq., of the law firm of Clark Hill PLLC, hereby submits her
20 Opposition to Motion for Leave to Issue Subpoenas on Order Shortening Time.

21 Special Counsel has not shown good cause to extend the deadline for this Commission to
22 issue subpoenas for witnesses it has known about since *April 2026*. Indeed, Counsel has known for
23 several months that he has never even spoken to any of these proposed witnesses. Counsel does not
24 inform the Commission why these witnesses' testimony is relevant, necessary, not duplicative of
25 other witnesses' testimony, or really, anything at all.

26 Special Counsel concedes that the deadline to request subpoenas was September 18, 2026,
27 that the deadline "was not entered on Special Counsel's calendar and passed," and apologizes for
28

1 the “oversight.” Special Counsel now asks the Commission to both excuse that missed deadline
2 and to compress Judge Fiore’s time to respond.¹ Neither request is warranted. Special Counsel’s
3 own lack of diligence is not good cause, and the emergency he asks the Commission to address is
4 entirely of his own making. The Motion for Leave and the OST Motion should be denied.

5 MEMORANDUM OF POINTS AND AUTHORITIES

6 I. FACTUAL BACKGROUND

7 The Commission’s Prehearing Order, dated May 12, 2026, provides that, “[n]ot less than
8 thirty (30) days before the hearing, the Parties may submit a written request for the Commission to
9 issue subpoenas for the production of documents or to compel attendance or testimony of the
10 witnesses, if any, pursuant to NRS 1.466 and PRJDC 20.” On June 16, 2026, the Commission
11 entered its Order Setting Public Hearing and Notice of Panel Members Order Regarding Media
12 Access, scheduling the hearing in this matter to commence on October 19, 2026 and to conclude
13 on October 22, 2026. Therefore, the deadlines to request subpoenas was September 18, 2026.

14 Special Counsel was appointed in April 2026 and identified and disclosed his potential
15 witnesses in May and June 2026. He does not contend that any witnesses refused to appear. He
16 states only that, apart from Investigator Curtiss C. Kull, he was unable to “confirm” the witnesses’
17 appearances.

18
19 ¹ Notably, this is one of the few filings in which Special Counsel does not forecast the
20 Commission’s ruling in his favor. In motion after motion, Special Counsel has told the Commission
21 — the very body that will decide this case — that a ruling against him is “unlikely.” *See* Motion to
22 Strike Motion to Dismiss for Violation of Due Process (Sept. 30, 2026) at 3 (urging the Commission
23 to deny Judge Fiore’s motion “sua sponte” and stating that Special Counsel would file an opposition
24 only “in the unlikely event that the instant motion is denied”); Special Counsel’s Response to
25 Respondent’s Supplemental Memorandum to Disqualify (Sept. 22, 2026) at 2 (asserting the
26 Commission “should formally deny Respondent’s Motion” and addressing the contrary outcome
27 only “in the unlikely event that the Motion is granted”); Opposition to Respondent’s Motion for
28 Expert Keith Fisher to Testify Remotely (Sept. 28, 2026) at 4 (framing denial of Special Counsel’s
own Motion in Limine as arising only “in the unlikely event that the Commission denies Special
Counsel’s Motion In Limine”); Opposition to Respondent’s Motion to Dismiss (May 26, 2026)
(treating an adverse ruling on the sufficiency of the charging document as reachable only “in the
unlikely event that the Commission determines that the FSOC is not sufficiently clear and
concise”). A prosecutor who repeatedly assures the tribunal that it is “unlikely” to rule against him
presumes a decisionmaker already aligned with his position — the precise structural defect Judge
Fiore identifies in her Motion to Dismiss for Violation of Due Process, where the Commission has
merged the roles of accuser and adjudicator and prejudged the result and “cannot fairly adjudicate
charges it has already prejudged”

1 Special Counsel concedes that the September 18, 2026 deadline “was not entered on Special
2 Counsel’s calendar and passed without Special Counsel requesting subpoenas,” and that he “was
3 not aware of the need for subpoenas until the week of September 21, 2026.” *See* Motions, at 2. He
4 explains that his practice “is almost exclusively comprised of labor law clients” and that “[i]t has
5 been years” since he was involved in civil litigation. *See* Motion for OST, at 2. He “sincerely
6 apologizes...for the subpoena deadline oversight.” *Id.*

7 Special Counsel filed the Motion for Leave and the OST Motion together on September 28,
8 2026 –three weeks before the hearing. Among the seven subpoenas he seeks one is directed to
9 Respondent herself, whom Special Counsel first named as a witness only on September 25, 2026,
10 in a Second Supplemental Disclosure, “[a]fter realizing that Respondent had not disclosed herself.”
11 *See* Motion for Leave, at 2; Motion for OST, at 3.

12 To note, Special Counsel’s request to stipulate to the issuance of the late-requested
13 subpoenas was cast in a materially different light than what is reflected in its Motion. Indeed,
14 Special Counsel actually reached out regarding this issue on September 23, 2026, and expressly
15 premised the request on **one witness** who “has requested a subpoena.” *See Exhibit A*, 9/23/2026
16 Email Correspondence. It was not presented as a request for subpoenas for several witnesses whom
17 Special Counsel had not yet contacted. Thus, the request for a stipulation was incomplete as to its
18 scope and basis.

19 **II. LEGAL ARGUMENT**

20 **a. Legal Standard**

21 During a disciplinary proceeding, the Commission “may issue a subpoena to compel the
22 attendance or testimony of a witness or the production of any relevant materials.” *See* NRS
23 1.4666(1). The Commission’s Prehearing Order channels that authority through a firm deadline: a
24 party must submit any written request for subpoenas “[n]ot less than thirty (30) days before the
25 hearing.” *See* Prehearing Order, at 1. The same Prehearing Order affords a party ten (10) days to
26 respond to a motion, and Special Counsel acknowledges that Respondent “normally ha[s] ten (10)
27 days to file a response...pursuant to PRJDC 38.2(A). *See* Motion for OST, at 3. A motion to shorten
28 that time may be granted only on a showing of good cause.

1 **b. The Motion for Leave Should Be Denied As Untimely**

2 The Motion for Leave is untimely on its face. The Prehearing Order required any subpoena
3 request to be submitted no less than thirty days before the hearing—by September 18, 2026. Special
4 Counsel did not submit a request by that date and did not move for leave until September 28, 2026.
5 Special Counsel does not dispute the deadline; he concedes it. He admits the deadline “was not
6 entered on Special Counsel’s calendar and passed,” that he “was not aware of the need for
7 subpoenas until the week of September 21, 2026,” and he apologizes for the “oversight.” *See*
8 Motion for Leave at 2; Motion for OST at 2-3. However, these errors do not constitute good cause.

9 Special Counsel cannot establish good cause to modify the applicable deadline because the
10 circumstances offered to justify the untimely filing demonstrate a lack of diligence rather than
11 circumstances beyond counsel’s control. **Diligence is the threshold inquiry.** In *Torremoro v.*
12 *Eighth Judicial District Court*, the Nevada Supreme Court held that, in determining whether good
13 cause exists to modify a scheduling deadline, the tribunal “must first consider the moving party’s
14 diligence,” and that “[t]he motion must be denied if the district court determines the moving party
15 did not act diligently.” 138 Nev. 578, 581, 512 P.3d 765, 768 (2022). *Torremoro* further makes
16 clear that excusable neglect does not encompass a party’s “own carelessness, inattention, or willful
17 disregard of the court’s process.” *Id.* Thus, where the failure to comply with a deadline is
18 attributable to counsel’s own lack of attention to the governing requirements, the predicate showing
19 of good cause is **absent**.

20 That principle is particularly significant here because Special Counsel does not identify an
21 external circumstance that prevented compliance with the deadline. Instead, the explanation is
22 essentially that counsel overlooked or misunderstood the applicable procedural requirement.
23 Nevada law does not recognize an attorneys oversight as good cause. In *State v. Second Judicial*
24 *District Court ex rel. County of Washoe*, the Nevada Supreme Court expressly held that “mere
25 oversight on the part of a prosecutor does not constitute good cause” and that “[a]n attorney’s
26 inadvertence alone is not good cause.” 116 Nev. 953, 959, 11 P.3d 1209, 1213 (2000). Indeed, the
27 Court noted, “The reason for the late filings in this case was simply that the prosecutor overlooked
28 the deadline[.]” *Id.* The Court likewise rejected workload and the complexity of the case as

1 sufficient justification. *Id.* The reasoning applies with particular force here: whatever the demands
2 placed upon Special Counsel, the missed deadline resulted from counsel's own failure to identify
3 and comply with an existing procedural requirement, not from some circumstance that made timely
4 compliance impossible despite diligent efforts. Further, Special Counsel contacted undersigned
5 counsel five days after the deadline on September 23, 2026 regarding a stipulation to allow him to
6 issue the subpoenas. Then filed the Motion for Leave.

7 Nor does Special Counsel's explanation that counsel primarily practices in labor arbitration,
8 or that years have passed since counsel regularly engaged in civil litigation, supply the missing
9 good cause. Nevada law has long rejected unfamiliarity with governing procedure as a basis for
10 excusable neglect. In *State ex rel. Department of Highways v. Roman Catholic Bishop of Reno*, the
11 Nevada Supreme Court declined to treat counsel's inexperience with the applicable procedure and
12 misunderstanding of a plain procedural rule as excusable neglect. 80 Nev. 1, 4–5, 388 P.2d 202,
13 204 (1964) ("The excuse offered for such neglect is the inexperience of the research assistant...and
14 his misreading of the plain language of NRCp 73(g). We do not consider that the excuse offered
15 constitutes excusable neglect."). Counsel's professional background therefore does not excuse the
16 failure to ascertain and comply with the governing deadline. To hold otherwise would effectively
17 make procedural deadlines depend upon an attorney's familiarity with the forum rather than upon
18 the rules themselves.

19 Taken together, these authorities foreclose Special Counsel's attempt to transform attorney
20 error into good cause. *Torremoro* makes diligence the threshold inquiry and the Supreme Court of
21 Nevada has established that oversight and inadvertence do not satisfy that standard. Further, *Roman*
22 *Catholic Bishop* rejects unfamiliarity with governing procedure as excusable neglect. Special
23 Counsel's explanation does not identify circumstances beyond counsel's control despite diligent
24 efforts. It identifies counsel's own oversight and unfamiliarity with the governing procedure. Those
25 circumstances may explain why the deadline was missed, but under Nevada law, they do not
26 constitute good cause for excusing it.

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28 //

1 **c. Notwithstanding Timeliness, the Motion Should Still Be Denied.**

2 Even assuming the Commission finds good cause for counsel's error(s), which it should
3 not, its Motion should still be denied for a multitude of reasons.

4 **i. *The Subpoenas Would Be Subject to Quashing***

5 Because the Formal Statement of Charges has been filed, NRCP 45 governs the issuance of
6 subpoenas in this matter. NRS 1.462(2). On timely motion, the issuing authority "must quash or
7 modify" a subpoena that fails to allow a reasonable time to comply, requires a person to travel more
8 than 100 miles (except to attend trial within Nevada), requires disclosure of privileged matter, or
9 subjects a person to an undue burden; and the party issuing a subpoena "must take reasonable steps
10 to avoid imposing undue burden or expense" on the person served. NRCP 45(c)(3)(A), (c)(1).

11 First, Special Counsel cannot establish that the requirements of NRCP 45(c)(3)(A) would
12 be satisfied, because he has apparently never spoken to most of these witnesses. By his own
13 account, in September 2026 he was "only able to speak with Mr. Kull," and he has "not been able
14 to confirm any of the other witnesses' appearances." *See* Motion for OST at 5. Having never
15 communicated with them, Special Counsel is in no position to represent that a subpoena would
16 afford any given witness a reasonable time to comply, would not command travel of more than 100
17 miles, or would not impose an undue burden—the very considerations that determine whether a
18 subpoena survives under NRCP 45(c)(3)(A). Indeed, the investigator in this matter did not produce
19 anything showing that he had contact with these witnesses either. Thus, we do not even know if
20 these witnesses are still located in Nevada. Special Counsel asks the Commission to compel
21 attendance on faith, without any showing that compulsory process is proper as to any particular
22 witness.

23 Second, the individuals served must be afforded a meaningful opportunity to object. NRCP
24 45 vests the person subject to a subpoena with the right to move to quash or modify it, or to serve
25 written objections, before being compelled to appear. Issuing seven subpoenas on the eve of a
26 hearing that begins October 19, 2026 would leave the recipients no realistic time to assert undue
27 burden, privilege, or other objections before they are commanded to testify. The compressed
28 timeline that Special Counsel's own delay created cannot be cured by extinguishing the recipients'

1 procedural rights.

2 **ii. Special Counsel Fails to Establish That the Proposed Witness**
3 **Testimony Would Be Relevant or Non-Cumulative**

4 Special Counsel has not shown that the witnesses' accounts would not be cumulative. NRS
5 1.466 authorizes subpoenas to compel relevant testimony or the production of relevant materials.

6 Every individual Special Counsel seeks to compel is a witness only to pre-bench conduct.
7 Agent Smith is disclosed to testify "regarding the flyer/letter from Respondent soliciting funds for
8 the Alyn Beck statue," and Mr. Armstrong to testify "that no funds were received from Respondent
9 for the Alyn Beck statue." Governor Lombardo, Mr. Richardson, Mr. White, and Mr. Brown are
10 likewise witnesses to the 2019-2020 solicitation and use of donations for the statue. Not only is the
11 proposed testimony duplicative, but critically, all of that conduct predates Judge Fiore's assumption
12 of judicial office. Only "material" evidence—evidence "logically connected with the facts of
13 consequence or the issues in the case"—may be compelled by subpoena. *Wyman v. State*, 125 Nev.
14 592, 217 P.3d 572 (2009). Judge Fiore has consistently maintained that the Commission lacks
15 jurisdiction over conduct predating her judicial service. To the extent this proceeding concerns her
16 conduct in judicial office, testimony directed solely at pre-bench solicitation is immaterial, and
17 compelling six witnesses to travel to give it is neither necessary nor proportionate. At a minimum,
18 the Commission should decline to authorize such subpoenas and should modify any authorization
19 to exclude cumulative and pre-bench-only testimony and to afford each recipient the full
20 opportunity to object that NRCP 45 guarantees.

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1 **III. CONCLUSION**

2 Based upon the foregoing, Judge Fiore respectfully requests that the Commission deny
3 Special Counsel's Motion for Leave for Commission to Issue Subpoenas.

4 Dated this 5th day of October, 2026.

5 **CLARK HILL PLLC**

6 **/s/ Paola M. Armeni**

7 PAOLA M. ARMENI

8 Nevada Bar No. 8357

9 GIA N. MARINA

10 Nevada Bar No. 15276

11 1700 South Pavilion Center Drive, Suite 500

12 Las Vegas, Nevada 89135

13 Tel: (702) 862-8300

14 Attorneys for Respondent, The Honorable Michele Fiore
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1 **CERTIFICATE OF SERVICE**

2 The undersigned, an employee of Clark Hill PLLC, hereby certifies that on the 5th day of
3 October, 2026, I served a true and correct copy of the foregoing **THE HONORABLE JUDGE**
4 **MICHELE FIORE'S OPPOSITION TO MOTION FOR LEAVE TO ISSUE SUBPOENAS**
5 **ON ORDER SHORTENING TIME** via electronic means and U.S. Mail:

6 Thomas J. Donaldson
7 1817 N. Stewart Street, Ste. 35
8 Carson City, Nevada 89706
9 Email: tom@majlabor.com

10 Special Counsel for the Nevada
11 Commission on Judicial Discipline

12 Nevada Commission on Judicial Discipline
13 Email: ncjdinfo@judicial.nv.gov

14 
15 _____
16 An employee of CLARK HILL PLLC
17
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EXHIBIT A

EXHIBIT A

Archived: Monday, September 28, 2026 4:26:34 PM
From: [Armeni, Paola M.](#)
Sent: Wed, 23 Sep 2026 22:58:44
To: [Thomas J. Donaldson](#)
Cc: [Kelly Gilbert](#)
Subject: RE: NCJD Case No. 2025-108-P--witnesses, etc.
Importance: Normal
Sensitivity: None

Tom,

We are filing a limited opposition to your Motion for leave. It is due tomorrow.

We can prepare the stipulation, but do you want us to wait until you hear back from Richardson?

We are not requesting any subpoenas. Let me think about your request.

Paola

Paola M. Armeni ([hear name](#))

Member In Charge

Clark Hill

1700 S. Pavilion Center Drive, Ste 500, Las Vegas, NV 89135

+1 702.697.7509 (office) | +1 702.778.9709 (fax)

parmeni@clarkhill.com | www.clarkhill.com

From: Thomas J. Donaldson <tom@majlabor.com>
Sent: Wednesday, September 23, 2026 3:15 PM
To: Armeni, Paola M. <parmeni@ClarkHill.com>
Cc: Kelly Gilbert <Kelly@majlabor.com>
Subject: NCJD Case No. 2025-108-P--witnesses, etc.

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Paola,

I am not opposed to stipulating to allowing witnesses who are not available in person (for good cause) to testify remotely via video conferencing, with the exception of Keith Fisher. At this point, your proposed witnesses Maryian Ausiello and Jason Gunnell will be testifying remotely, if allowed by the Commission. I imagine as long as the State Bar office has the technology, the Commission will allow remote testimony. I am waiting to hear back from Robert Richardson who had a trip to Ireland planned, but was not sure if he was able to go. Do you want to prepare a stipulation?

Also, one of my witnesses has requested a subpoena. The deadline to request a subpoena was 9/18/2026. Do you need any subpoenas? Will you stipulate that we can request subpoenas? If not, I will file another motion for leave.

Finally, will you accept service of my Request for Production of Documents or will you be filing an opposition to

my Motion for Leave to serve it? Please let me know. Thank you.



Thomas J. Donaldson, Esq. | Partner

Office [775.885.1896](tel:775.885.1896) **Facsimile** [775.885.8728](tel:775.885.8728)

Email tom@majlabor.com **Web** www.majlabor.com

1817 N Stewart Street, Ste 35 | Carson City, NV 89706

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From: Armeni, Paola M. <parmeni@ClarkHill.com>
Sent: Wednesday, September 23, 2026 1:50 PM
To: Thomas J. Donaldson <tom@majlabor.com>
Cc: Kelly Gilbert <Kelly@majlabor.com>
Subject: RE: Pahrump Justice Court Department B

Thanks for checking. We will continue preparing for the hearing.

Paola

Paola M. Armeni ([hear name](#))

Member In Charge

Clark Hill

1700 S. Pavilion Center Drive, Ste 500, Las Vegas, NV 89135

+1 702.697.7509 (office) | +1 702.778.9709 (fax)

parmeni@clarkhill.com | www.clarkhill.com

From: Thomas J. Donaldson <tom@majlabor.com>
Sent: Wednesday, September 23, 2026 1:41 PM
To: Armeni, Paola M. <parmeni@ClarkHill.com>
Cc: Kelly Gilbert <Kelly@majlabor.com>
Subject: Pahrump Justice Court Department B

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Paola,

After our telephone conference this morning, I verified with Executive Director Deyhle that it is unlikely that the Commission will accept any disciplinary action short of being barred from judicial office pursuant to NRS 1.4677(1)(e) to resolve this matter. Regarding the possibility of imposing reimbursement for the replacement costs to cover Judge Fiore's calendar pursuant to NRS 1.4677(1)(f), Nye County provided preliminary numbers, which, will be updated in the event that the Commission imposes such an action. See below and attached. The Commission remains willing to waive such a term of disciplinary action to resolve this case as specified in my

letter dated August 7, 2026. I do not anticipate offering this information as hearing exhibits, but wanted to pass it along to you. Please let me know if you have any questions. Thank you.

Messing Adam Jasmine & Shore

Thomas J. Donaldson, Esq. | Partner

Office [775.885.1896](tel:775.885.1896) **Facsimile** [775.885.8728](tel:775.885.8728)

Email tom@mailabor.com **Web** www.mailabor.com

1817 N Stewart Street, Ste 35 | Carson City, NV 89706

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From: Zena E. Teich <zeteich@nyecountynv.gov>

Sent: Friday, August 21, 2026 11:07 AM

To: Valerie M. Carter <vmcarter@judicial.nv.gov>

Cc: Paul Deyhle <pdeyhle@judicial.nv.gov>; Kadie Seghieri <kseghieri@judicial.nv.gov>; Lorina F. Dellinger <ldellinger@nyecountynv.gov>; Dianna N. Carrell <dncarrell@nyecountynv.gov>

Subject: RE: Judicial Discipline Commission - Request for Information

WARNING - This email originated from outside the State of Nevada. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Good day,

Attached please find the requested documentation. Please let me know if you need any additional information. Thank you!

Zena Teich
Nye County Comptroller
1981 E. Calvada Blvd., Suite 100
Pahrump, NV 89048
Email: zeteich@nyecountynv.gov
Office - (775) 751-6391
Cell - (775) 764-1588



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From: Zena E. Teich <zeteich@nyecountynv.gov>

Sent: Tuesday, August 11, 2026 2:01 PM

To: Valerie M. Carter <vmcarter@judicial.nv.gov>

Cc: Paul Deyhle <pdeyhle@judicial.nv.gov>; Kadie Seghieri <kseghieri@judicial.nv.gov>; Lorina F. Dellinger <ldellinger@nyecountynv.gov>; Dianna N. Carrell <dncarrell@nyecountynv.gov>

Subject: RE: Judicial Discipline Commission - Request for Information

WARNING - This email originated from outside the State of Nevada. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Good day,

Here is a summary of Nye Counties expenditures related to temporary justices of the peace, or other substitute judicial officers appointed or retained to perform the duties of Pahrump Justice Court Department B from the date of initial suspension to about July 26, 2026.

Payments for substitute judicial officers	\$142,460.80	(payments to substitute judicial officers includes \$12,600 for weekend work that was reimbursed by the State)
Payments to substitute judicial officers for travel	<u>\$1,696.70</u>	
Total paid for substitute judicial officers & travel	\$144,157.50	

Please let me know if you need any additional information or documentation. Thank you!

Zena Teich
Nye County Comptroller
1981 E. Calvada Blvd., Suite 100
Pahrump, NV 89048
Email: zeteich@nyecountynv.gov
Office - (775) 751-6391
Cell - (775) 764-1588



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