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Attorneys for Respondent, Michele Fiore

7 **BEFORE THE NEVADA COMMISSION ON JUDICIAL DISCIPLINE**
8 **STATE OF NEVADA**

9 In the Matter of the,
10
11 HONORABLE MICHELE FIORE
Justice of the Peace, Pahrump Township, County
12 of Nye, State of Nevada
13 Respondent.

COMMISSION CASE NO. 2025-108

14 **THE HONORABLE JUDGE MICHELE FIORE'S PREHEARING BRIEF**

15 Respondent, the Honorable Michele Fiore, by and through her attorneys of record Paola M.
16 Armeni, Esq. and Gia N. Marina, Esq., of the law firm of Clark Hill PLLC, hereby submits her
17 Prehearing Brief in preparation for the hearing scheduled for October 19-22, 2026.

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. RELEVANT FACTS**

3 **A. Admitted**

4 1. As a Las Vegas City Councilwoman during 2019-2020, Judge Fiore organized and
5 supported charitable and community events in her district, including events associated with the
6 Alyn Beck Park.

7 2. The Alyn Beck Park was completed in January 2020.

8 3. The Nye County Board of Commissioners appointed Michele Fiore as Justice of the
9 Peace for Pahrump Township Justice Court on December 20, 2022, and the voters of Nye County
10 elected her to that position in June 2023.

11 4. On July 16, 2024, a Criminal Indictment was returned against Judge Fiore, alleging
12 one count of conspiracy to commit wire fraud (18 U.S.C. § 1349) and four counts of wire fraud (18
13 U.S.C. § 1343).

14 5. The Criminal Indictment states that the relevant timeframe related to all charges was
15 “as early as July 2019, to on or about January 31, 2020.”

16 6. On October 3, 2024, a jury found Judge Fiore guilty of wire fraud and conspiracy to
17 commit wire fraud.

18 7. After the jury verdict, the Commission issued a Notice of Intent to Suspend Judge
19 Fiore Without Salary on October 4, 2024. The Order suspending Judge Fiore without pay was
20 entered on October 21, 2024.

21 8. On April 23, 2025, prior to sentencing, President Donald J. Trump issued an
22 Executive Grant of Clemency, granting a full and unconditional pardon for all charges against
23 Judge Fiore in the criminal action.

24 9. On April 28, 2025, the Honorable Judge Jennifer A. Dorsey issued a Minute Order
25 in Chambers vacating the sentencing hearing “[i]n light of Defendant Michele Fiore’s filing of an
26 Executive Grant of Clemency with the Department of Justice seal attached” and the criminal action
27 was terminated.

28 10. No judgment of conviction was ever entered in the criminal matter.

1 **B. Undisputed**

2 1. On June 19, 2019, Paul C. Deyhle, Executive Director of the Commission, made the
3 following statements during an interview with Our Nevada Judges:

4 “As for the Commission, as I said, we cannot discipline a judge for conduct committed
5 when that individual was not a judge, say as an attorney. We cannot. Our statutes, our rules
6 are very specific on who the Commission has jurisdiction over – they simply have no
jurisdiction *over anyone* unless you are a judge for conduct prior to becoming a judge. The
only exception being, as what I said, campaign misconduct. That is the only exception.”

7 **II. AFFIRMATIVE DEFENSES¹**

8 **A. Lack of Jurisdiction:**

9 **Elements:** The Commission’s disciplinary jurisdiction over a judge reaches only “an act
10 or omission that occurs **on and after** the date on which the judge enters upon the duties of office.”
11 NRS 1.440. The “Judge” subject to the Code is one whose “conduct at issue ... occurred while the
12 person was serving” in office. NRS 1.428.

13 **Facts:** Respondent assumed office on December 21, 2022. The solicitation and receipt of
14 the donations was complete in 2019-2020. The FAFSOC identifies no judicial act, no misuse of
15 judicial office, and no post-investiture conduct independent of the completed pre-bench events. The
16 continuing existence of an alleged unpaid obligation is a continuing *consequence* of pre-bench
17 conduct, not a continuing *act* of judicial misconduct.

18 **B. Failure to State A Claim / No Enforceable Legal Duty**

19 **Elements:** Code of Jud. Conduct, Rule 1.1 requires a judge to comply with the law. A
20 “failure to comply with the law” requires an identified, enforceable legal obligation that was
21 violated. The FAFSOC must, on its face, establish grounds for discipline pursuant to NRS 1.4653.

22 **Facts:** No state criminal charge, civil judgment, restitution order, or adjudication of
23 embezzlement, conversion, or unjust enrichment has ever been entered against Respondent. No
24 donor filed a complaint with the Commission, or filed a civil action. Absent a violated legal duty,
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27 ¹ The Commission limited this section to 2 pages, however, Judge Fiore cannot reasonably lay out
28 the elements and facts in support of her defenses within 2 pages. Judge Fiore preserves her right to
present all of her defenses in this matter and does not agree to abandon any of the foregoing
defenses prior to the hearing in this matter.

1 there is no clear-and-convincing basis for a Rule 1.1 violation. The appearance-of-impropriety
2 theory in Count Two is derivative of the Rule 1.1 theory. Rule 1.2 cannot convert a pre-bench
3 private matter or an unpaid balance into a free-standing, perpetual ethics violation and no new post-
4 investiture conduct is alleged that independently creates an appearance of impropriety.

5 **C. No Continuing Duty / Limitations Time Bar**

6 **Elements:** (a) The Commission may not consider complaints arising from acts or omissions
7 occurring more than 3 years before the complaint, absent a continuing course of conduct; (b) a
8 continuing violation requires a continuing legal duty; and (c) no such duty existed. NRS 1.4655. A
9 continuing-conduct theory is a timeliness device, not a grant of substantive jurisdiction.

10 **Facts:** The Verified Complaint was filed May 2, 2025; the underlying conduct occurred in
11 2019–2020, outside the three-year window. The Commission relies on a “continuing” duty to notify
12 donors or return funds, but Rule 1.2’s aspirational “at all times” command cannot manufacture a
13 free-standing, indefinite obligation to remedy pre-bench private conduct where no statute, order, or
14 contract imposed one. Code of Jud. Conduct, Rule 1.2. The charges identify only an omission —
15 continued nonpayment/non-notification — which is the persistence of the alleged 2019–2020
16 wrong, not a new act.

17 **D. Effect of The Presidential Pardon and Absence of Conviction**

18 **Elements:** A full pardon granted before conviction/judgment, “prevents any of the penalties
19 and disabilities consequent upon conviction from attaching.” *Ex parte Garland*, 71 U.S. 333, 18 L.
20 Ed. 366 (1866). Under Nevada law, a **jury verdict is not a judgment**; before judgment is
21 pronounced, “judgment may be arrested or a new trial granted”; conviction attaches at
22 judgment/sentence. *Allgood v. State*, 78 Nev. 326, 372 P.2d 466 (1962).

23 **Facts:** Respondent accepted a full and unconditional Presidential pardon on April 23, 2025,
24 before sentencing and before any judgment of conviction was entered; the federal court then
25 vacated the sentencing date and closed the case with no judgment entered.

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1 **E. Count 3 Independently Fails – Untimely Filing and the Commission’s Own**
2 **Admissions of Prematurity**

3 **Elements:** Count Three rests solely on the federal jury's guilty verdict. Two independent
4 defects defeat it. *First*, the Commission's own procedural framework required it to act within a
5 fixed window: under NRS 1.4675(7), within 60 days after a decision to suspend a judge, the
6 Commission must (a) have a formal statement of charges filed, (b) rescind the suspension, or (c)
7 enter a deferred discipline agreement. *See also* PRJDC 9.6(C)(ii). *Second*, a party may not adopt a
8 position for tactical advantage and later assert the opposite; the Commission's repeated, formal
9 declarations that discipline on the verdict was premature bar it from now resting a charge on that
10 same verdict.

11 **Facts:** Rather than file charges within the 60-day window following its suspension
12 decisions, the Commission repeatedly rescinded and reinstated Respondent's suspension, declaring
13 on the record each time that "the filing of a formal statement of charges is premature given
14 Respondent's pending sentencing date" based on the jury verdict. The Commission thus
15 acknowledged in writing, on several occasions, that the guilty verdict standing alone could not
16 support discipline. It confirmed that position again when it rescinded Respondent's suspension
17 without salary following the Presidential pardon — treating the verdict as an insufficient basis for
18 discipline. Having deemed the verdict premature and then rescinded verdict-based discipline, the
19 Commission cannot resurrect the identical verdict as the sole predicate for Count Three. A verdict
20 for pre-bench conduct that, by the Commission's own admission, could not support charges when
21 returned does not become new judicial misconduct by the Commission's later change of heart.
22 Further, this claim is barred by the Commission’s own rules.

23 **F. Lack of Fair Notice / Shifting Theories (Due Process)**

24 **Elements:** The adequacy of notice is a critical component of procedural due process and
25 the opportunity to be heard is equally essential. “Under Nevada law, inherent in any notice and
26 hearing requirement are the propositions that the notice will accurately reflect the subject matter to
27 be addressed and that the hearing will allow full consideration of it.” *Nevada Rest. Servs., Inc. v.*
28 *Clark Cnty.*, 981 F. Supp. 2d 947 (D. Nev. 2013), *aff’d*, 638 F. App’x 590 (9th Cir. 2016). The

1 Canons do not provide notice that failure to return pre-bench donations is a violation and is silent
2 on donations received in a non-judicial capacity.

3 **Facts:** No Canon placed Respondent on notice that a failure to return pre-bench donations
4 would constitute a judicial-ethics violation. To that point, because the Code gave no notice that the
5 charged conduct was a violation, Respondent could not have knowingly or deliberately violated it.
6 Further, the Commission has alternated between disciplining Respondent for pre-bench conduct
7 and for “continuing” post-investiture conduct, and shifted from treating the verdict as premature to
8 relying on it as a basis for a Canon violation. Indeed, the Commission itself previously treated the
9 verdict as an insufficient basis for discipline, rescinding Respondent’s suspension without pay after
10 the pardon.

11 **G. Disqualifying Bias / Right to A Neutral Tribunal / Prejudgment (Due Process)**

12 **Elements:** “A fair trial in a fair tribunal is a basic requirement of due process,” applicable
13 to administrative adjudicators; recusal is required where, objectively, “the probability of actual bias
14 ...is too high to be constitutionally tolerable” — no proof of subjective bias needed. *Caperton v.*
15 *A.T. Massey Coal Co.*, 556 U.S. 868, 129 S. Ct. 2252, 173 L. Ed. 2d 1208 (2009); *In re Murchison*,
16 349 U.S. 133, 75 S. Ct. 623, 99 L. Ed. 942 (1955). And the Commission “may not justify an ad hoc
17 approach to judicial discipline no matter how well-intentioned and benevolent the Commission's
18 actions may be” and judicial misconduct cannot rest on the Commission's own case-by-case
19 judgment about what conduct is desirable. *Whitehead v. Nevada Comm'n on Jud. Discipline*, 111
20 Nev. 70, 893 P.2d 866 (1995).

21 **Facts:** Respondent is entitled to a neutral and unbiased adjudicator, and the record
22 establishes an intolerable risk of prejudgment from more than one direction. As set forth in
23 Respondent's Motion to Dismiss for Violation of Due Process, incorporated by reference, the same
24 Commissioners who repeatedly suspended Respondent and formally found that she “poses a
25 substantial threat of serious harm to the public or to the administration of justice” now sit to
26 adjudicate charges their own Executive Director initiated at their direction — merging the roles of
27 accuser, investigator, prosecutor, and judge. Self-initiation is the rare exception (roughly one
28 percent of disciplinary complaints); here the Commission generated the complaint itself, built its

1 "substantial threat" findings on the federal trial transcripts while disregarding approximately 182
2 letters of community support, reversed its jurisdictional position mid-case, and relied on out-of-
3 state authority no party had briefed. Those are specific, record-based facts of actual prejudgment,
4 not the "generalized allegations" rejected in *Mosley v. Nevada Commission on Judicial Discipline*,
5 117 Nev. 371, 22 P.3d 655 (2001). Separately, Respondent contends that participation by
6 commissioners appointed by an official who testified against her in the underlying federal
7 proceeding creates a constitutionally intolerable appearance of bias.

8 **H. Mitigating Factors:**

9 No prior disciplinary history, over 180 letters of community support, absence of any donor
10 complaint, civil suit, or request for the return of funds, positive feedback as her role as a judge, and
11 a reputation of giving back to the community.

12 **III. ISSUES OF LAW**

13 **1. Whether the Commission has jurisdiction over conduct that occurred before** 14 **Judge Fiore assumed judicial office.**

15 The Commission's authority reaches a person only where "the conduct at issue . . . occurred
16 while the person was serving in" judicial office (NRS 1.428), and its jurisdiction is limited to
17 judicial conduct. *Halverson v. Hardcastle*, 123 Nev. 245, 252, 163 P.3d 428, 433 (2007). The
18 Legislature allocated pre-service conduct to other bodies — the State Bar for attorney-judges (NRS
19 1.440(2)(a)) and the Commission on Ethics for public officers under NRS Chapter 281A —
20 confirming a temporal boundary that begins at investiture. *Accord In re Burrell*, 6 S.W.3d 869, 870
21 (Mo. 1999); *Inquiry Concerning Coomer*, 315 Ga. 841, 885 S.E.2d 738, 748–49 (2023) (code has
22 no application to conduct predating judicial service). "The Code of Judicial Conduct simply has no
23 application to conduct by people who are not yet judges or judicial candidates, even if they later
24 become a judge or judicial candidate." *Inquiry Concerning Coomer*, 315 Ga. 841, 842, 885 S.E.2d
25 738, 743 (2023).

26 **2. Whether the alleged conduct provides grounds for removal from office.**

27 Nevada law distinguishes between conduct warranting discipline and conduct warranting
28 removal from office. The Commission may impose public censure or other discipline for a violation

1 of the Code of Judicial Conduct even when the violation was not knowing or deliberate. NRS
2 1.4653(2). Removal, however, requires the heightened grounds identified in NRS 1.4653(1),
3 including willful misconduct, willful or persistent failure to perform the duties of office, or habitual
4 intemperance. Thus, although non-willful conduct may support some form of discipline, it does
5 not, standing alone, satisfy the statutory standard for removal from the bench.

6 **3. Whether continued nonpayment or non-notification after taking office constitutes**
7 **an independent, ongoing violation of the Code, or merely the persistence of**
8 **completed pre-office conduct.**

9 The relevant inquiry is whether Judge Fiore committed an independent act or omission after
10 assuming judicial office, rather than whether the consequences of allegedly pre-office conduct
11 merely continued thereafter. *See In re Huckaby*, 656 So. 2d 292, 296 (La. 1995). Nevada's
12 consideration of “remote acts” in *Matter of Davis* involved a recurring pattern of judicial
13 misconduct, not the conversion of completed pre-office conduct into an in-office violation. 113
14 Nev. 1204, 1215, 946 P.2d 1033 (1997). Likewise, NRS 1.4655's reference to a “continuing course
15 of conduct” concerns the timeliness of a complaint; it does not independently expand the
16 Commission's substantive jurisdiction.

17 **4. Whether the Commission may find an unadjudicated state crime or tort**
18 **(embezzlement, conversion, or unjust enrichment) as a predicate for a Canon 1,**
19 **Rule 1.1 violation.**

20 The authority to define sanctionable judicial misconduct rests with the Supreme Court, and
21 the Commission exceeds its jurisdiction by sanctioning conduct not definitively proscribed by its
22 rules, Nevada criminal law, or the Nevada Constitution. *Whitehead v. Nevada Comm'n on Jud.*
23 *Discipline*, 110 Nev. 128, 143, 906 P.2d 230 (1994). No state proceeding has adjudicated any of
24 these theories, and Special Counsel bears the clear-and-convincing burden under NRS 1.4673(2).

25 **5. Whether the full and unconditional Presidential pardon removes the federal wire-**
26 **fraud verdict as a basis for discipline.**

27 A full pardon granted before final judgment prevents conviction-related penalties and
28 disabilities from attaching. *Ex parte Garland*, 71 U.S. 333 (1866). A pardon is not a judicial
confession of guilt and does not constitute an adjudication of the facts underlying the verdict.
Lorance v. Commandant, 13 F.4th 1150, 1156 (10th Cir. 2021). The Commission has already
recognized the pardon's effect by rescinding the felony-based suspension imposed under NRS

1 1.4675(2)(b). *Matter of Fiore*, 588 P.3d 140 (Nev. 2026). The remaining question is therefore
2 whether the Commission may independently establish the underlying conduct, rather than treating
3 the federal verdict itself as a disciplinary predicate.

4 **6. Whether Count One of the FAFSOC provides adequate notice of a specific**
5 **violation, or is impermissibly duplicitous.**

6 A formal statement of charges must identify the “specific acts of judicial misconduct,” and
7 Special Counsel must prove the grounds for discipline “in conformity with averments of the formal
8 statement of charges.” *In re Mosley*, 120 Nev. 908, 912, 102 P.3d 555 (2004). Count One instead
9 pleads “criminal embezzlement, civil conversion and/or unjust enrichment” disjunctively — three
10 theories with materially different elements — and fails to specify the statutory grounds required
11 under NRS 1.4653.

12 **7. Whether the Commission can sit as a neutral adjudicator.**

13 A fair trial in a fair tribunal is a basic requirement of due process, *In re Murchison*, 349 U.S.
14 133, 136 (1955), and this requirement applies to administrative adjudicators, *Withrow v. Larkin*,
15 421 U.S. 35, 46 (1975). Recusal is required where the probability of bias is “too high to be
16 constitutionally tolerable,” *Caperton v. A.T. Massey Coal Co.*, 556 U.S. 868, 877 (2009), and an
17 unconstitutional potential for bias exists when the same body serves as accuser and adjudicator,
18 *Williams v. Pennsylvania*, 579 U.S. 1, 9 (2016). Under Nevada law, the issue therefore turns on
19 whether the record demonstrates prejudgment beyond the mere combination of functions. *Mosley*
20 *v. Nevada Comm’n on Jud. Discipline*, 117 Nev. 371, 381, 22 P.3d 655 (2001).

21 **IV. WITNESSES**

22 **A. Commission’s Witnesses (Time Estimated for Cross-Examination)**

- 23 1. Jay Brown, Esq. **(25 mins)**
- 24 2. Curtiss Kull – Investigator, Spencer Investigations **(20 mins)**
- 25 3. Joseph Lombardo – Governor **(30 mins)**
- 26 4. Robert Richardson – Community Ambulance **(15 mins)**
- 27 5. Douglas Smith – FBI **(25 mins)**
- 28 6. Thomas White – Laborer’s International Union, Local 872 **(15 mins)**

1 7. Chris Armstrong – Olympia Companies (15 mins)

2 8. Michele Fiore – Respondent (45 mins)

3 **B. Judge Fiore’s Witnesses (Time Estimated for Direct Examination)²**

4 1. (Expert) Keith R. Fisher (45 mins)³–

5 a. **Expected Testimony:** opinions that the Commission lacks jurisdiction over
6 conduct predating judicial office, that the charges are legally and procedurally
7 insufficient, and that the presidential pardon negates the basis for the charges.

8 **Relevance:** Bears on defenses (jurisdiction, absence of legal duty, notice and
9 pardon).

10 2. Jason Earnest (10-15 minutes)

11 a. **Expected Testimony:** Mr. Earnest will testify to being a litigant in Judge Fiore’s
12 courtroom and his experience in that capacity. He will also testify to Judge Fiore’s
13 reputation as a judge.

14 3. Andrew Coats (10-15 minutes)

15 a. **Expected Testimony:** Mr. Coats will testify to being a litigant in Judge Fiore’s
16 courtroom and his experience in that capacity. He will also testify to Judge
17 Fiore’s reputation as a judge.

18 4. Annette Fuentes (10-15 minutes)

19 a. **Expected Testimony:** Ms. Fuentes is a resident of Pahrump and a supporter of
20 Judge Fiore. She supported her in the last election, has knowledge of community
21 events, will discuss the reputation of Judge Fiore when she was on the bench and
22 how the suspension from the bench affected her election.

23 5. Brittany Jenkins (10-15 minutes)

24 a. **Expected Testimony:** Ms. Jenkins is a resident of Pahrump. She assisted Judge
25 Fiore in her last campaign. She will testify to her opinion of Judge Fiore.

26 _____
27 ² Judge Fiore reserves her right to call any of the witnesses identified by Special Counsel in this
28 matter.

³ Respondent is still waiting on a ruling as to whether Mr. Fisher can testify remotely.

6. Maryian Ausiello (10-15 minutes)

- a. **Expected Testimony:** Ms. Ausiello is a resident of Pahrump. She was a supporter of Judge Fiore in the last election. She will testify to Judge Fiore's demeanor and ability while on the bench. She will also testify to her opinion of Judge Fiore.

7. Mary Sinohui (10-15 minutes)

- a. **Expected Testimony:** Ms. Sinohui is a resident of Pahrump. She was a supporter of Judge Fiore in the last election. She will testify to Judge Fiore's demeanor and ability while on the bench.

8. Patrick Kerby (10-15 minutes)

- a. **Expected Testimony:** Mr. Kerby will testify as to Judge Fiore's reputation as a Judge, his personal opinion of her, experience at fundraisers for Judge Fiore and how the accusations are out of character for Judge Fiore.

9. Jason H. Gunnell (10-15 minutes)

- a. **Expected Testimony:** Mr. Gunnell is an attorney and practiced before Judge Fiore as a district attorney. He will testify to his experience in her courtroom.

V. **EXHIBITS⁴**

At the time of hearing, Judge Fiore may seek to introduce the following exhibits:

Ex. #	Description	Relevance
A	Ward 6 Voter Welcome Postcard	Community activities as Councilwoman; context for 2019-2020 conduct.
B	Newly Registered Ward 6 Voter Congratulations Postcard	Community activities as Councilwoman; context for 2019-2020 conduct.
C	January's Upcoming Community Events with Michele Fiore, City Councilwoman/Mayor Pro Tem	Purpose and use of community/event funds
D	Invoice 148663 from Gill's Printing & Color Graphics and cancelled check	Use of funds for community/event purposes of Beck Park
E	Reimbursement Check payable to Jay Brown, Check	Handling and disposition of

⁴ Judge Fiore reserves the right to object to any exhibit that Special Counsel attempts to introduce at the time of hearing. Further, Judge Fiore reserves her right to use any and all documents listed by Special Counsel and/or disclosed by Special Counsel in this matter.

	No. 1035	funds donated for statue.
F	Reimbursement Check payable to Jay Brown, Check No. 1037	Handling and disposition of funds donated for statue.
G	List of Community Involvement	Character, reputation, and mitigation.
H	Expert Report by Keith Fisher	Jurisdiction, legal sufficiency and effect of pardon.

VI. STIPULATIONS

Judge Fiore has stipulated with Special Counsel to allow Mr. Thomas White to testify on Wednesday October 21, 2026, even if the Commission has otherwise already concluded its case-in-chief.

VII. PRE-HEARING PROCEDURAL / SUBSTANTIVE MOTIONS

A. The Honorable Judge Fiore's Prehearing Motions:

1. Motion to Dismiss – filed May 15, 2026

- a. Commission's Opposition – filed May 26, 2026
- b. Judge Fiore's Reply – filed June 2, 2026

2. Motion to Disqualify Commissioners Stephanie 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 – filed August 31, 2026

- a. Interim Order Regarding Respondent's Motion to Disqualify Commissioner – filed September 14, 2026
- b. Judge Fiore's Supplemental Memorandum of Points and Authorities in Support of Motion to Disqualify Commissioners Stephanie 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 – filed September 18, 2026
- c. Commission's Response to Respondent's Supplemental Memorandum of Points and Authorities to Disqualify Commissioners – filed September 22, 2026

3. Motion to Dismiss Count 1 of the First Amended Formal Statement of Charges – filed September 4, 2026

- a. Commission's Opposition – filed September 14, 2026
- b. Judge Fiore's Reply – filed September 21, 2026

- 1 4. **Motion to Dismiss for Violation of Due Process – filed September 29, 2026**
- 2 a. Commission’s Motion to Strike – filed September 30, 2026
- 3 b. Judge Fiore’s Opposition to Motion to Strike – filed September 30, 2026
- 4 c. Judge Fiore’s Amended Motion to Dismiss for Violation of Due Process – filed
- 5 September 30, 2026 (no substantive changes; formatting only)
- 6 d. Commission’s Opposition – *pending*
- 7 e. Judge Fiore’s Reply – *pending*
- 8 5. **Motion for Expert Keith Fisher to Testify Remotely – filed September 16, 2026**
- 9 a. Commission’s Opposition – filed September 28, 2026
- 10 b. Judge Fiore’s Reply – filed September 29, 2026
- 11 6. **Unopposed Motion for Law Witnesses Maryian Ausiello and Jason H. Gunnell to**
- 12 **Testify Remotely – filed September 29, 2026**

13 **B. The Commission’s Prehearing Motions:**

- 14 1. **Motion for Leave to Serve Request for Production of Documents on Respondent**
- 15 **– filed September 14, 2026**
- 16 a. Judge Fiore’s Limited Opposition – filed September 24, 2026
- 17 b. Commission’s Reply – filed September 25, 2026
- 18 2. **Motion in Limine to Exclude Testimony of Keith R. Fisher and Expert Statement**
- 19 **of Keith R. Fisher – filed September 23, 2026**
- 20 a. Judge Fiore’s Opposition – filed September 28, 2026
- 21 b. Commission’s Reply – *pending*
- 22 3. **Motion for Leave to Request Commission to Issue Subpoenas & Motion for Order**
- 23 **Shortening Time – filed September 28, 2026**
- 24 a. Order Shortening Time Granted by Commission on September 30, 2026
- 25 b. Judge Fiore’s Opposition – filed October 5, 2026.
- 26 c. Commission’s Reply – *pending*

27 **VIII. OTHER RELEVANT INFORMATION**

28 To promote an orderly hearing, Judge Fiore respectfully notes the following. First, several
threshold matters — the pending Motion to Dismiss Count One, the Motion to Disqualify, and the
remote-testimony motions — may narrow the issues and witnesses for hearing and would benefit

1 from resolution before or at the outset of the hearing. Second, because Special Counsel bears the
2 burden of proving each charge by clear and convincing evidence, and because the charges turn on
3 whether any actionable act or omission occurred *after* investiture, Judge Fiore anticipates that the
4 evidentiary presentation can be focused on that dispositive question and on the effect of the
5 presidential pardon.

6 Judge Fiore reserves the right to supplement this brief, her witness and exhibit lists, and her
7 stipulations consistent with the Prehearing Order and the Procedural Rules of the Nevada
8 Commission on Judicial Discipline.

9 Judge Fiore anticipates the following witnesses to testify remotely at the time of hearing on
10 this matter:

- 11 1. Keith R. Fisher (if Commission's MIL is denied);
- 12 2. Maryian Ausiello;
- 13 3. Jason H. Gunnell, Esq.

14 Dated this 5th day of October, 2026.

15 **CLARK HILL PLLC**

16 /s/ Paola M. Armeni

17 PAOLA M. ARMENI

18 Nevada Bar No. 8357

19 GIA N. MARINA

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Attorneys for Respondent, The Honorable Michele Fiore

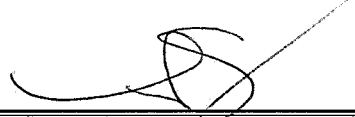
1 **CERTIFICATE OF SERVICE**

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 PREHEARING BRIEF** via electronic means and U.S. Mail:

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

9 Special Counsel for the Nevada
10 Commission on Judicial Discipline

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

13 
14 _____
15 An employee of CLARK HILL PLLC
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