

Supreme Court of Nevada
ADMINISTRATIVE OFFICE OF THE COURTS

KATHERINE STOCKS
Director and State Court
Administrator



JOHN MCCORMICK
Assistant Court Administrator

AGENDA

**Commission to Study the Rules Governing Judicial Discipline and Update, as
Necessary, the Nevada Code of Judicial Conduct**

Date and Time of Meeting: August 12, 2022 @ 1:00 pm

Place of Meeting: Remote Access via Zoom (Zoom.com or Zoom app, see “Notices” for access information)

***All participants attending remotely should mute themselves when not speaking;
it is highly recommended that teleconference attendees use a landline and handset in order to reduce
background noise.***

- I. Call to Order
 - A. Call of Roll
 - B. Determination of a Quorum
 - C. Welcome and Opening Remarks
- II. Public Comment
- III. Review and Approval of Previous Meeting Summary (*Tab 1; pages 3-8*)
 - A. June 20, 2022
- IV. Follow-Up Items from Previous Meeting
 - A. “Judicial Perspectives on Judicial Discipline: Trends and Outlooks” Presentation (*Tab 2; pages 9-42*)
 - B. NCJD Statistics Collection and Reporting
 1. Information Provided by NCJD Director Paul Deyhle (*Tab 3; pages 43-197*)
 - C. NCJD Budgetary Constraints
 - D. Update on Removal of “Election Practices” from Standing Committee (*Tab 4; pages 198-212*)
- V. Proposed Items for Commission Review (*Tab 5; pages 213-244*)
 - A. Current Procedural Rules of the Nevada Commission on Judicial Discipline (*Tab 6; pages 245-267*)
 1. Rule 3.6

2. Rule 6
 3. Rule 12
 4. Rule 16
 5. Rule 18
 6. Rule 24
 7. Rule 26
 8. Rule 27
- B. Additional Proposed Topics for Review and Possible Rule Drafting
1. Electronic Testimony of Witnesses
 2. Oral Argument and Prescribed Time Limit for Ruling on Prehearing Motions
 3. Commissioner Term Limits
 4. Gender Equality in Panel Membership
 5. Bifurcation of Commission Proceedings
 6. Review of NJDC's Decision to Not Investigate Instances of Misconduct by Judicial Candidates During the 2020 Election Cycle
 7. Review of Language Used
 8. NCJD Budgetary Constraints/Concerns

VI. Other Items/Discussion

VII. Next Meeting Date and Location

A. TBD

VIII. Public Comment

IX. Adjournment

- Action items are noted by * and typically include review, approval, denial, and/or postponement of specific items. Certain items may be referred to a subcommittee for additional review and action.
- Agenda items may be taken out of order at the discretion of the Chair in order to accommodate persons appearing before the Commission and/or to aid in the time efficiency of the meeting.
- If members of the public participate in the meeting, they must identify themselves when requested. Public comment is welcomed by the Commission but may be limited at the discretion of the Chair.
- The Commission is pleased to provide reasonable accommodations for members of the public who are disabled and wish to attend the meeting. If assistance is required, please notify Commission staff by phone or by email no later than two working days prior to the meeting, as follows: Jamie Gradick, (775) 687-9808: jgradick@nvcourts.nv.gov
- This meeting is exempt from the Nevada Open Meeting Law (NRS 241.030)
- At the discretion of the Chair, topics related to the administration of justice, judicial personnel, and judicial matters that are of a confidential nature may be closed to the public.
- **Notice of this meeting was posted in the following locations:** Nevada Supreme Court website: www.nvcourts.gov; Carson City: Supreme Court Building, Administrative Office of the Courts, 201 South Carson Street; Las Vegas: Nevada Supreme Court, 408 East Clark Avenue.

Meeting ID: 830 7750 5564
Participant Passcode: 158368

Please Note: Those attending via mobile device should use the Zoom application to access the meeting.

TAB 1

ADMINISTRATIVE OFFICE OF THE COURTS

KATHERINE STOCKS
Director and State Court
Administrator



JOHN MCCORMICK
Assistant Court Administrator

MEETING SUMMARY

**Commission to Study the Rules Governing Judicial Discipline and Update, as
Necessary, the Nevada Code of Judicial Conduct**

June 20, 2022

2:00 PM

Summary prepared by: Jamie Gradick

Members Present

Chief Justice Ron Parraguirre, Chair
Justice James Hardesty, Vice-chair
Ms. Lyn Beggs
Judge Bert Brown
Judge Mark Denton
Judge Richard Glasson
Judge David Hardy
Mr. Dennis Kennedy
Judge Tammy Riggs
Judge T. Arthur Ritchie
Judge Tom Stockard
Judge Ann Zimmerman

AOC Staff Present

Jamie Gradick
John McCormick

Guests Present

K. Armstrong
D. Batten
D. Christensen
P. Deyhle
J. Sanford
N. Schreihans
G. Vause
T. Wilson

I. Call to Order

- Chief Justice Parraguirre called the meeting to order at 2:02 p.m.
- Ms. Gradick called roll; a quorum was present.
- Opening Comments
 - Chief Justice Parraguirre welcomed attendees.
 - Justice Hardesty provided a contextual overview of the Commission's creation per AB43.
 - At the Legislature's request, this commission was created to review the statutes and rules governing the Nevada Commission on Judicial Discipline. This Commission was tasked with making recommendations to the Legislature,

consistent with best practices, regarding potential improvements to the function and operation of the Nevada Commission on Judicial Discipline.

- There is an ongoing debate regarding the scope of the rules in the Constitution for procedural aspects of the Commission's function and whether these should be evaluated, as well.
- Concern has also been expressed regarding inadequate funding for the Nevada Commission on Judicial Discipline; the Commission is "underfunded" to meet the demands placed upon it. Justice Hardesty commented that the lack of appropriate funding is something that should be made a "priority" with the Legislature.

II. Public Comment

- No public comment was offered.

III. Discussion of Commission Scope and Mission

- Authority of the NJDC to Adopt Rules
 - Attendees discussed the Nevada Commission on Judicial Discipline's authority to make its own rules.
 - Discussion was held regarding degrees of rule-making authority held by the Nevada Commission on Judicial Discipline, by the Legislature, and by the Supreme Court.
 - Justice Hardesty suggested the group start by reviewing the constitutional provision creating the Commission; Art 6 tasks the Supreme Court with adopting a Code of Judicial Conduct and tasks the Commission with adopting "rules of procedure" necessary to carry out its duties. The Legislature has the a broader authority to create/change applicable statutes, as necessary.
 - Judge Hardy asked for clarification regarding "bifurcation" and where the authority to investigate versus the authority to prosecute should lie. Discussion was held regarding this group's ability to make a recommendation on this issue based upon best practices, how these issues are handled in other states, public perception, etc.
 - Attendees discussed the possibility of inviting subject matter experts to a future meeting to present on best practices and to offer insight.
 - Chief Justice Parraguirre commented that he will contact Mr. Keith Fisher at the National Judicial College to see if he is willing to act as a resource for this group.
 - Justice Hardesty encouraged attendees to communicate resource needs and interests; this is an opportunity to "take a fresh look" at these issues.
- Attendees discussed whether this Commission should also review the Judicial Code of Conduct itself or if that would exceed the the scope of Commission's work.
 - Justice Hardesty commented that the Judicial Code of Conduct should be reviewed but is only implicated in this Commission's work to the extent that the Commission is of the view "that enforceability of the Code is problematic by the Discipline Commission because of confusion that exists, either within the Code itself, or with commentary within the Code."
 - Ideally, this is a topic that could be addressed by a new, separate Nevada Supreme Court commission.

IV. Review of Procedural Rules of the Nevada Commission on Judicial Discipline

- Rule 6
 - Judge Zimmerman commented that there is a lack of transparency on the part of the Nevada Commission on Judicial Discipline and the rule should be amended to require the Commission to post on their website the Formal Statement of Charges and any other documents subsequently filed, as well as any decisions issued by the Supreme Court.
- Rule 12
 - Judge Zimmerman suggested this rule be amended to require the Nevada Commission on Judicial Discipline to provide copy of complaint and all corresponding documents to Respondent prior to scheduling an interview or providing any answer.
- Rule 16
 - Judge Zimmerman suggested that the rule be amended to require the Nevada Commission on Judicial Discipline to set the hearing at a time that is mutually agreed upon by the parties and the commission and to require that proper venue shall be the jurisdiction where the alleged misconduct occurred.
- Rule 26
 - Judge Zimmerman commented that this rule should be amended to require the Commission to consult with both parties as to how much time each party will require to present their case. Each party should be allowed the amount of time requested to present their case and the Nevada Commission on Judicial Discipline can hold them to it.
- Rule 24
 - Attendees discussed remedies if/when procedural rules of the Nevada Commission on Judicial Discipline conflict with the Nevada Rules of Criminal Procedure.
 - Judge Zimmerman commented that, currently, the Commission promulgates Interrogatories and compels an Answer prior to the filing of Formal Statement of Charges. This is contrary to NRCP 26(a) that provides that Interrogatories are due once discovery is opened upon the filing of a complaint.
 - Judge Zimmerman commented that, currently, there is no time limit for the Commission to rule on pre-hearing motions, thereby depriving the Respondent the opportunity to appropriately prepare for hearing. The current practice is to rule on pre-hearing motions immediately prior to the start of the hearing. The Commission should be required to rule on these Motions at least 14 days prior to the date of the hearing.
- Rule 27
 - Judge Zimmerman suggested this rule be changed to require an Order of Dismissal be filed with the Clerk of the Nevada Supreme Court and posted on the Nevada Commission on Judicial Discipline's website.
- Proposed New Rules
 - Judge Zimmerman suggested the addition of a rule to permit electronic testimony at the discretion of the parties.
 - Judge Zimmerman suggested the addition of a rule to establish a time limit for the Commission to rule on pre-hearing motions, at least 14 days prior to the date of hearing. Pre-hearing motions should be afforded oral argument in public unless the parties stipulate otherwise. The rule should also provide that the Nevada Commission on Judicial Discipline and parties can appear remotely.

- Judge Riggs commented that she is interested in a “top-to-bottom” review of the way the Nevada Commission on Judicial Discipline handles cases.
 - Terminology should be modified. For example, the use of “prosecution” should be eliminated as these matters are not criminal in nature.
 - Term limits should be addressed as well; Nevada is a 6-year state but, it seems, many commissioners have been on the Nevada Commission on Judicial Discipline for a longer period.
 - Judge Hardy commented that the Nevada Constitution provides that terms are to be limited to 4 years.
 - Gender-equity on panel membership is also a concern.

V. Review of NRS Chapter 1

- This item was not discussed during the meeting.

VI. Additional Suggested Items for Commission Review

- Chief Justice Parraguirre asked Commission members to provide additional topics for review, along with any supporting documentation, to Ms. Gradick prior to the next meeting.
 - Justice Hardesty would like to know whether the Nevada Commission on Judicial Discipline is laboring under the view that is it under “ongoing budget constraints” and requested specifics and recommendations for what measures this commission could include in its report to the Legislature.
 - Chief Justice Parraguirre asked those members of the Nevada Commission on Judicial Discipline, who are sitting on this Commission, to follow up with Mr. Deyhle and report back at the next meeting regarding the budgetary constraints/concerns and how these issues impact the Nevada Commission on Judicial Discipline’s ability to operate.
 - Justice Hardesty would like to further review enforcement of the Judicial Code of Conduct provisions regarding candidates running for office. What is the Commission’s official position?
 - Judge Riggs commented that she would like to know on what authority the Nevada Commission on Judicial Discipline’s decision to not investigate alleged instances of misconduct by judicial candidates during the 2020 election cycle, was based. Additionally, Judge Riggs would like to know the volume of complaints received and, to what extent, the Commission’s decision was based on resource and volume concerns.
 - Judge Hardy would like to know why the Standing Committee on Election Practices was dissolved and whether it would be appropriate to incorporate it, to some extent, back into the rules.
 - There was discussion regarding resource and budget concerns in addition to the Committee finding itself being sued for its determinations.
 - Ms. Gradick will review the ADKT record regarding the Committee.
 - Ms. Beggs suggested the group specifically address the bifurcation of proceedings of the investigation and the formal hearing.
 - Judge Glasson suggested the Commission address language; “Formal Complaint” would be more consistent and appropriate than “Formal Statement of Charges” and should follow an “Accusation.”

- Justice Hardesty asked whether those members of the Nevada Commission on Judicial Discipline, who are sitting on this Commission, have identified any statutory language concerns that should be examined.
 - Mr. Denton suggested the name of the Commission on Judicial Discipline be changed to “Commission on Judicial Conduct”. A comment was made that this would require a Constitutional change.
 - Justice Hardesty asked whether the Nevada Commission on Judicial Discipline publishes statistics on its website or provides statistics/data to the Legislature in any form? If so, do those statistics include data on how many complaints are filed, investigated, and dismissed and what types of matters are usually at issue? The group should discuss what statistics are kept and what, if any, additional data should be tracked.
 - Mr. Denton commented that Mr. Paul Deyhle would be in a better position to provide that information.
 - Chief Justice Parraguirre asked Mr. Denton to follow up with Mr. Deyhle on these questions and report back at the next meeting.
 - Judge Stockard commented that the Nevada Commission on Judicial Discipline posts reports on its website. Ms. Gradick will locate a Powerpoint presentation on this that was presented at the recent Nevada Judicial Leadership Summit.

VII. Other Items/Discussion

- In preparation for the next meeting, Chief Justice Parraguirre requested that Judge Glasson, Judge Riggs, and Judge Zimmerman be prepared to provide a presentation on the specifics of those items suggested for Commission review during this meeting.

VIII. Next Meeting Date

- Chief Justice Parraguirre commented that he would like to hold the next meeting in a month.
 - Ms. Gradick will distribute an availability survey to the Commission membership.

IX. Public Comment

- No public comment was offered.

X. Adjournment

- The meeting was adjourned at 3:25 pm.

TAB 2

JUDICIAL PERSPECTIVES ON JUDICIAL DISCIPLINE

TRENDS AND OUTLOOKS

JUDICIAL DISCIPLINE COMMISSION

- ▣ Two judges or justices appointed by the Nevada Supreme Court
- ▣ Two attorney members appointed by the State Bar Board of Governors
- ▣ Three non-lawyers appointed by the Governor
 - Chair to be selected from lay members

JUDICIAL DISCIPLINE COMMISSION

Regular Members	Alternate Members
Gary Vause, Chair Owner Little Scholar Child Care	Joseph Sanford Retired Lyon County Undersheriff
Stefanie Humphrey, Co-Chair Ret. State of Nevada	Judge Richard Glasson (Tahoe JC) Judge Stephen Bishop (Ely JC)
John Krmpotic President, KLS Planning & Design	Judge Natalie Tyrell (NLV JC)
Judge Mark Denton (8 th JD)	Judge Thomas Gregory (9 th JD)
Judge David Hardy (2 nd JD)	Judge Thomas Stockard (10 th JD)
Karl Armstrong, Esq. Nev. Department of Administration	Judge Kristin Lewis (Carson Muni/JC) Judge Dorothy Nash Holmes (Reno Muni)
Donald Christensen, Esq Christensen Law Group	Bill C. Hammer, Esq Christopher Laurent, Esq.

JUDICIAL DISCIPLINE STAFF

- ▣ Paul Deyhle
 - General Counsel & Executive Director
- ▣ Three Associate Counsel
- ▣ Three Staff Members

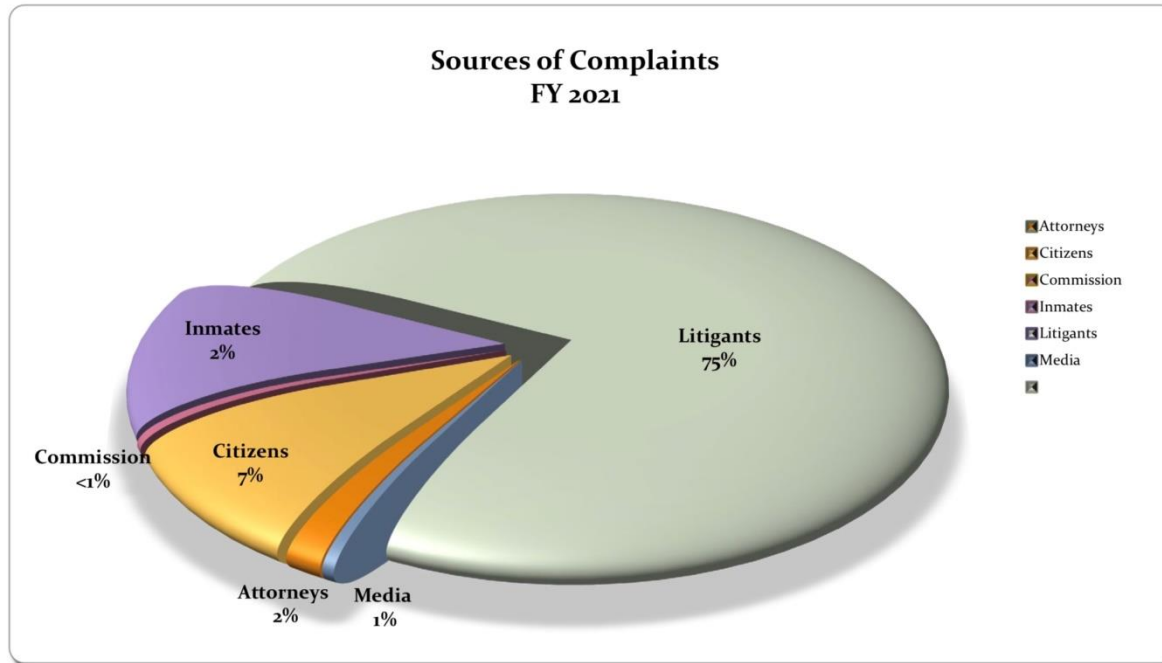


WHERE DO COMPLAINTS COME FROM?

- ▣ Complaints in the mail
 - Most from litigants
 - Anonymous complaints generally not considered
- ▣ Executive Director can bring a complaint with approval of commission (does not make him complainant)

WHERE DO COMPLAINTS COME FROM?

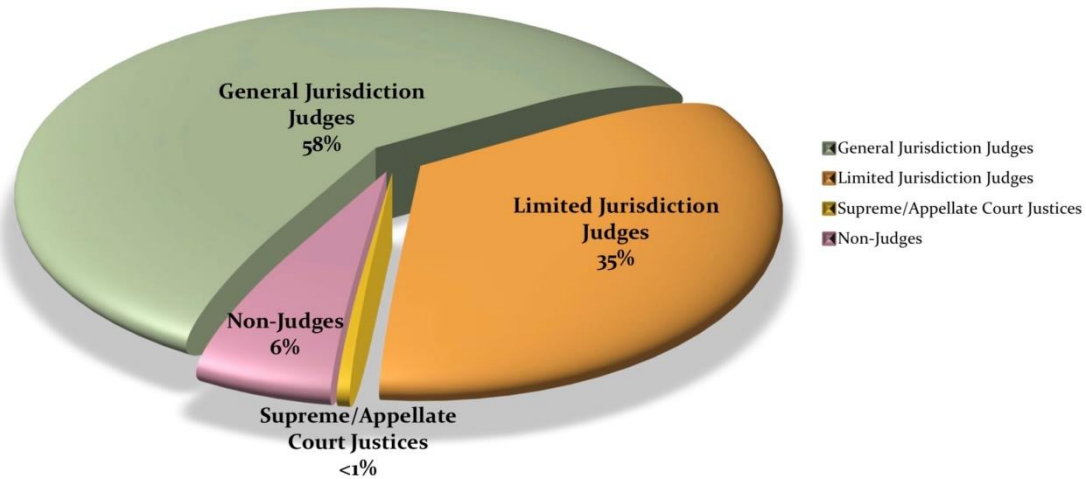
Category	Amount
Attorneys	3
Citizens	18
Commission	1
Inmates	22
Litigants	138
Media	1
Total	183



WHO RECEIVES COMPLAINTS?

Category	Number of Complaints
General Jurisdiction Judges	107
Limited Jurisdiction Judges	64
Supreme/Appellate Court Justices	1
Non-Judges	11
Total	183

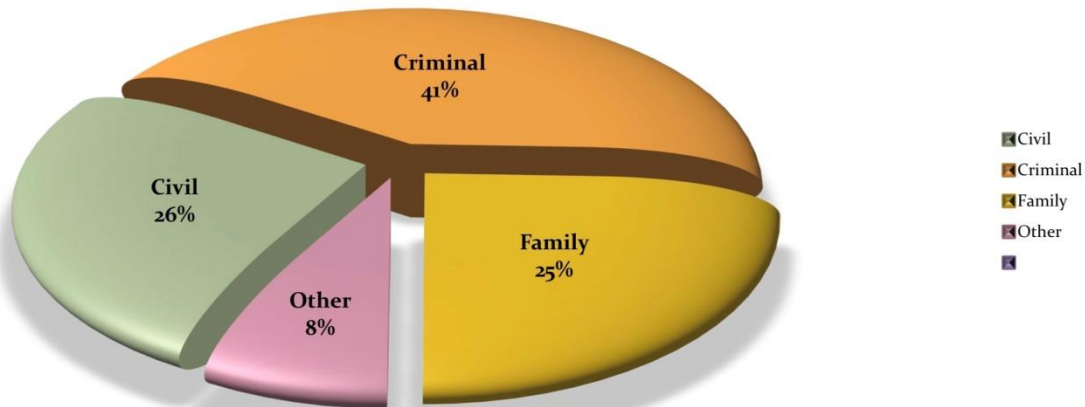
**Types of Judges Complained Against
FY 2021**



WHAT KIND OF CASES?

Category	Number of Complaints
Civil	47
Criminal	76
Family	45
Other	15
Total	183

Area of Law- Complaint Origination
FY 2021



WHAT NEXT?

- ▣ Complaint is scanned in
 - Staff orders docket/video, etc.
- ▣ File is assigned to one of the four lawyers to review
 - Check for need to process on emergency basis
 - Attorney reviews and makes recommendation
 - General Counsel reviews all recommendations

COMMISSION CONSIDERS ALL COMPLAINTS

- ▣ Commission meets quarterly
- ▣ Special meetings for emergencies
- ▣ Commission members get everything judicial discipline has including complaint, memo from lawyer with recommendation and any additional information attached.

POSSIBLE ACTIONS

- ▣ Dismissal
- ▣ Dismissal with Letter of Caution
- ▣ Investigation



**I WANT TO
BELIEVE**

MESSAGE FROM THE EXCU

- ▣ Commission respects what judges do.
- ▣ Commission works as a team.
 - Executive Director only acts with approval of the Commission
- ▣ Commission understands that sometimes complainants abuse the process, but also understands that sometimes judges are abusive.

MOST COMPLAINTS DISMISSED

CASE DISPOSITIONS¹ FISCAL YEAR 2021

Disposition of Complaints	Number
Dismissed after initial review	148
Dismissed after investigation - no action taken	10
Dismissed with cautionary letter*	7
Proceed to Formal Statement of Charges*	5
Deferment of Formal Disciplinary Action	1
Total=	171

HOW ARE COMPLAINTS DISMISSED

- ▣ Administrative dismissal (complaint filed against a federal judge or attorney) by Executive Director
- ▣ All other dismissals require action by the commission.
 - Complaint not supported by evidence (for example, complaint that judge yelled is inconsistent with video)
 - Complaint is a disagreement with judicial decision making

DISMISSAL

- ▣ The judge does not receive notice
 - Avoid retaliation in active cases
 - Chilling effect for complaints
 - Commission resources
- ▣ Complainant receives letter that the complaint has been dismissed and recourse is to appeal.

LETTER OF CAUTION

- ▣ Commission makes a determination no discipline is warranted.
- ▣ Letter is not public and judge not provided opportunity to respond prior to issuance.
- ▣ Stays in file and can be used in future discipline of related conduct within 5 years of letter

RESPONSE TO LETTER

- ▣ Letter of Caution can rub judges the wrong way sometimes.
 - Considered a nudge to judge to bring issue to their attention without any public proceeding
- ▣ Option is to request the Commission to reconsider.
- ▣ Reconsideration can go either way, and could result in investigation.

INVESTIGATION

- ▣ If commission determines there is issue of concern, will authorize investigation.
- ▣ Judicial discipline lawyers will meet with the investigator and discuss the scope.
- ▣ Investigators are contractors.
- ▣ Investigator provided the entire file.

AFTER INVESTIGATION

- ▣ Judicial Discipline attorney will review results of investigation and make a new recommendation.
- ▣ Commissioners have access to all the reports.
- ▣ Options at this point are dismissal, dismissal with letter of caution, or ordering judge to answer the complaint.

STANDARD

- ▣ Standard to require answer from judge is clear and convincing evidence that misconduct occurred.
- ▣ Majority of commissioners (4 out of 7) must vote in favor of requiring an answer.

ANSWER

- ▣ Still in confidential phase.
- ▣ Judge will receive letter advising of complaint and will receive a flash drive with all documents except judicial discipline work product.
- ▣ Judge has 30 days to answer
 - No format - can be letter or pleading.
 - Last opportunity to provide mitigation before complaint is public.

AFTER ANSWER

- ▣ Commission reviews answer.
- ▣ At that point, commission can:
 - Dismiss
 - Dismiss with letter of caution
 - Require follow-up investigation
 - Approve formal charges

PROSECUTOR

- ▣ Executive Director contacts prosecutor
 - Typically from different jurisdiction than judge but not always
 - List created by informal process
 - Must be attorney in good standing
 - \$300/hr
- ▣ Prosecutor does not make resolution decisions and can only negotiate to extent approved by Commission.

FORMAL CHARGES

- ▣ Unless judge files writ of prohibition during confidential phase, once prosecutor appointed process becomes public.
- ▣ Formal complaint filed.
- ▣ Formal answer filed.
- ▣ Trial set.
 - Rules require Commission to appoint presiding judge to deal with pretrial motions. Will not be lay person.

CONFLICT?

- ▣ Same people approving complaint making ultimate determination.
 - Not always
 - Majority of commissions around the country operate in the same way.
 - Found constitutional in our state.

STANDARD AFTER FORMAL CHARGES

- ▣ Standard is clear and convincing evidence.
- ▣ Commission determines:
 - (1) Is there a violation of the code?
 - (2) What discipline is appropriate?

DETERMINATION OF DISCIPLINE

- ▣ Commission deliberates
- ▣ 7 must deliberate and 5 must agree on outcome.
- ▣ If a commissioner is absent, alternate appointed to sit.
- ▣ If judge from limited jurisdiction court, alternate from that type of court will be appointed to assist.

DISCIPLINE OPTIONS


- ▣ Public Admonishment
- ▣ Reprimand
- ▣ Censure
- ▣ Fines
- ▣ Mental health or substance abuse evaluation and/or treatment
- ▣ Probationary period
- ▣ Suspension with or without pay
- ▣ Removal but can run again
- ▣ Removal and barred from running

RECOURSE

- ▣ Judge can file writ of prohibition at any time during process.
- ▣ Judge can appeal discipline decision to the Nevada Supreme Court.
- ▣ Discipline action does not go away because someone resigns.

CONCERNS OF COMMISSION

- ▣ Lack of written orders
 - Minutes are not enforceable orders
 - Rulings must be followed up with order in writing filed in the case in a timely manner.
- ▣ Delay in decision-making
- ▣ Social media



THE TRUTH IS OUT THERE

https://judicial.nv.gov/Discipline/Commission_Home/

TAB 3

From: [Paul Deyhle](#)
To: [Parraguirre, Justice Ron](#)
Cc: [Gradick, Jamie](#); "[Denton, Mark](#)"
Subject: ADKT 0582 - Commission to Study the Rules Governing Judicial Discipline and Update, as Necessary, the Nevada Code of Judicial Conduct
Date: Monday, July 25, 2022 4:26:29 PM
Attachments: [image001.png](#)
[ADKT 0582 Commission - Reply to Judge Tammy Riggs" Request for Information dated June 30 2022 \(Email 1 of 2\).msg](#)
[ADKT 0582 Commission - Reply to Judge Tammy Riggs" Request for Information dated June 30 2022 \(Email 2 of 2\).msg](#)

[NOTICE: This message originated outside of the Supreme Court of Nevada -- DO NOT CLICK on links or open attachments unless you are sure the content is safe.]

Dear Chief Justice Parraguirre,

On behalf of District Court Judge Mark Denton (cc'd above), ADKT 0582 Member and Regular Commissioner of the Nevada Judicial Discipline Commission, it is respectfully requested that the attached emails previously sent to all ADKT Members on July 10, 2022, be made part of the official record of these proceedings and, in accordance with Ms. Jamie Gradick's email dated July 14, 2022, be included in the material packet to be considered and discussed at the next ADKT meeting. Please note that the foregoing request does not include the zip file (containing formal charges from 2016 forward) attached to the first email (Email 1 of 2) sent out on July 10th. However, it is respectfully requested that the attachments to the second email (Email 2 of 2) on July 10th be made part of the record and included in the material packet for the next meeting (i.e., Answering Brief, Prehearing Order and Order Denying Motion to Transfer).

Thank you,

Paul

Paul C. Deyhle
General Counsel and Executive Director
Nevada Commission on Judicial Discipline
Executive Director
Nevada Standing Committee on Judicial Ethics
P.O. Box 18123
Reno, Nevada 89511
T: (775) 687-4017
F: (775) 448-9704



From: [Paul Deyhle](#)
To: tammy.riggs@washocourts.us
Cc: [Parraguire, Justice Ron](#); [Hardesty, Justice James](#); david.hardy@washocourts.us; dentonm@clarkcountycourts.us; tstockard@churchillcourts.org; RichardGlasson@gmail.com; elana.graham@clarkcountynv.gov; drakulichg@reno.gov; ritchiea@clarkcountycourts.us; khiggins@washocounty.us; batemans@clarkcountynv.gov; sam.bateman@clarkcountynv.gov; ann.zimmerman@clarkcountynv.gov; bmbrown@lasvegasnevada.gov; lyn@lbeggslaw.com; DKennedy@BaileyKennedy.com
Subject: ADKT 0582 Commission - Reply to Judge Tammy Riggs" Request for Information dated June 30, 2022 (Email 1 of 2)
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[NCJD Requested Information.zip](#)
Importance: High

Dear Judge Riggs,

As requested by your Judicial Assistant Caitly Skill (see email below dated June 30, 2022), attached are copies of the public Formal Statement of Charges for each of the judges subject to the public judicial discipline process from 2016 forward. Please note that in some cases a Formal Statement of Charges was not filed due to the NV Commission on Judicial Discipline ("NV Commission") and the judge agreeing to a Consent Order (stipulation) of discipline in lieu of formal charges. See Commission Procedural Rule 29 (Consent Orders). Also attached as requested are the appointment and reappointment dates for each of the Regular Commission Members and all Alternate Commission Members (judges, attorneys and lay members). The Commission does not have a written policy or procedure for reappointing members to the Commission since the Commission does not appoint or reappoint its members. The appointing authorities that appoint and reappoint members to the Commission are the Nevada Supreme Court (judicial members), the State Bar of Nevada Board of Governors (attorney members) and the Governor (lay members). When the term of service of a Commissioner (Regular or Alternate) is set to expire, Commission staff contacts the respective appointing authority to notify them of such expiration and to request appointment/reappointment.

Although this email is responding directly to you, I have also decided to copy all of the ADKT 0582 Commissioners not only for transparency purposes given that this is a public proceeding, but also to hopefully facilitate further discussion and understanding of the issues and proposals being discussed. *** In a separate email to follow, additional information will be provided which will address some of the other topics discussed at the ADKT 0582 Commission ("ADKT Commission") meeting held on June 20, 2022.

To further assist the ADKT Commission's consideration of the issues and proposals being discussed, please provide responses to the following questions below:

1. Please indicate which, if any, of the public cases from 2016 forward were decided unfairly or wrongly by the Commission and why. Please be specific.
2. Please indicate how these cases, if any, would have been decided differently if other commissioners had been involved given the specific facts and law of each respective case. Please be specific.
3. Please indicate whether any of the proposals seeking to impose and/or change the

Commission's (i) composition (from a one-tier structure to a bifurcated structure), (ii) term limits and (iii) Procedural Rules require Constitutional Amendment. If you believe that the proposals do not require Constitutional Amendment, then please provide specific legal authority that supports the proposals being enacted or promulgated without Constitutional Amendment given the following:

- Nevada Constitution, art. 6, sec. 21(2) (Composition); sec. 21(4) (Terms); and sec. 21(7) (Procedural Rules). Please note that the limited responsibilities conferred to the Legislature as delineated in sec. 21(5) do not involve the composition of the Commission, term limits, or changes to the Commission's Procedural Rules;
- The Nevada Supreme Court's decision in *Mosely v. Nevada Commission on Judicial Discipline*, 117 Nev. 371, 377-381, 22 P.3d 655, 659-661 (2001) (wherein the Court determined that "the Nevada State Constitution contemplates a judicial discipline commission with combined functions" and concluded that the holding in the United States Supreme Court case of *Withrow v. Larkin*, 421 U.S. 35, 52-58 (1975), was indistinguishable and dispositive of the issue of combining investigative and prosecutorial functions);
- Nevada Supreme Court ADKT No. 346 (February 21, 2003) (Nevada Supreme Court's Order repealing the Nevada Supreme Court's procedural rules governing the Commission following the people's approval and ratification of an amendment to the Nevada Constitution during the 1998 general election that removed the Nevada Supreme Court's authority to promulgate rules governing proceedings before the Commission and empowered the Commission to adopt procedural rules to govern its proceedings). Please note that in March 2003 (a few weeks after the issuance of the foregoing Order, the Commission adopted the same procedural rules which previously governed the Commission for decades;
- Article 6 Commission's conclusions on bifurcating the Commission. Please note that the Article 6 Commission, which was formed by the Nevada Supreme Court in 2006 and comprised experts throughout Nevada and the United States, including Supreme Court justices, judges, lawyers and members of the public, examined for over two years the entire structure and disciplinary process of the Commission, including the Commission's statutes and procedural rules. The Article 6 Commission authored the Article 6 Report which included a bill draft request ("BDR") to the Legislative Counsel Bureau. This BDR later became AB496 in the 2009 Legislative Session. In its Article 6 Report, the Article 6 Commission concluded as follows:

"Bifurcation of the Nevada Judicial Discipline Commission is not possible without constitutional amendment. The Commission has only seven members – two judges, two lawyers, and three public members. It is impossible to divide that membership in two and maintain a ratio of 1.5 public members to every judge and lawyer member. Having panels with different ratios decide whether to file a (*sic*) formal charges or whether formal charges have been proven would violate the Constitution.

Using alternate members to create a second tier or panel would not solve the problem. The Constitution does not provide for alternative members. Appointing members to sit occasionally on cases when a regular member is disqualified or otherwise unable to sit (which is the current practice) is inherent in the constitutional power of appointment, [citing *Mosely* opinion] but turning them into regular members taking part in every investigation or adjudication to avoid having to amend the Constitution cannot be justified. (It would also mean there would be no alternate members available to serve in place of disqualified regular members, complicating the Judicial Discipline Commission's task of finding a quorum.)" See Article 6 Report, Section D (Bifurcation), p.21; and

- The United States Supreme Court's decision in *American Farm Lines v. Black Ball Freight Service*, 397 U.S. 532, 538-39, 90 S.Ct. 1288, 25 L.ED.2d 547 (1970) (internal citations omitted), which held that:

"The Commission is entitled to a measure of discretion in administering its own procedural rules in such a manner as it deems necessary [T]here is no reason to exempt this case from the general principle that [i]t is always within the discretion of a court or an administrative agency to relax or modify its procedural rules adopted for the orderly transaction of business before it when in a given case the ends of justice require it. The action of either in such a case is not reviewable except upon a showing of substantial prejudice to the complaining party." See also, *Matter of Buckson*, 610 A.2d 203, 218 (Del.Jud. 1992), where the Delaware Supreme Court, in conducting a judicial discipline review, relied on the U.S. Supreme Court's decision in *American Farm Lines*.

4. Notwithstanding the foregoing, please provide the prospective benefits, if any, of the proposals seeking to impose and/or change the Commission's structure, term limits and Procedural Rules. For example, will the proposed changes decrease the timeliness of Commission proceedings, improve the effectiveness of the Commission in addressing judicial misconduct in Nevada, increase the transparency of the Commission, or decrease the operating funds necessary to enable the Commission to sufficiently carry out its constitutional and statutory mandates?
5. To the extent known or available, please provide evidence, if any, that supports or corroborates the allegation that the Commission made a decision (presumably in advance of or during the 2020 election cycle) that it would not investigate any instances of misconduct by judicial candidates during the 2020 election cycle (as set forth in the Agenda and discussed during the ADKT Commission meeting (via Zoom) on June 20, 2022).

Please note that the Commission is unaware of any decision made by the Commission in advance of or during the 2020 election cycle that it would not investigate any instances of election misconduct occurring during the 2020 election cycle. Please note that if the Commission receives a complaint alleging judicial misconduct in the course of an election, that complaint must follow the very same due process steps delineated by law as any other complaint (i.e., complaint review by staff and Commission, independent investigation, investigation review by staff and Commission, confidential response by judge, response

review by staff and Commission, multiple Commission meetings to review and act on the foregoing, appointment of an independently licensed attorney to act as prosecuting officer, prosecuting officer review of case, filing of formal charges, public answer by judge, setting public trial, pre-trial motion practice and holding a trial). However, a stipulation of discipline may be entered into between the judge and the Commission after the Commission appoints a prosecuting officer, which would obviate the need for a trial. Nevertheless, it is only after a trial or a stipulation of discipline is entered that the Commission can take any action or impose discipline or conditions on a judicial officer. As you can appreciate, the foregoing due process steps are very time-consuming. This does not even include time delays for extension of time requests, the filing of Writ Petitions and related motions for stay with the Nevada Supreme Court, as well as state and federal lawsuits filed against the Commission (and related motions for stay), all of which are afforded by law. By the time the foregoing process is complete, the election has long since concluded.

There is no authority under the law that permits the Commission to expedite election complaints or circumvent/bypass the due process steps previously discussed. Moreover, with respect to non-judicial officers, the Commission has no jurisdiction at all, whether over election misconduct or otherwise. As such, the only way the Commission can discipline a judicial candidate for election misconduct is if the judicial candidate wins the election. Otherwise, the Commission has no authority over lay persons or attorneys running for office who engage in election misconduct. Please note that members of the Nevada judiciary inquired several years ago regarding the Commission's practice in this regard and the very same explanation was given. Perhaps this explanation was misunderstood and the allegation set forth in Section VI.F. of the Agenda emanated from that discussion.

Please note that from 2014 to 2020, there was a total of 29 complaints filed concerning allegations of election misconduct. Eight (8) of those complaints were dismissed without investigation because the complaints either (i) alleged misconduct against non-judicial officers, or (ii) were filed outside the statute of limitations period. Under both circumstances, the Commission does not have jurisdiction to proceed by law. Among the remaining twenty-one (21) complaints filed over which the Commission had jurisdiction, the Commission authorized eight (8) investigations, imposed two (2) public reprimands (Almase and Smith) and issued four (4) letters of caution. Specifically, during the 2020 election cycle, the Commission received ten (10) complaints alleging election misconduct. Four (4) of those complaints were dismissed for alleging misconduct against non-judicial officers, and one (1) was dismissed for being filed outside the statute of limitations period. As mentioned above, the Commission has no jurisdiction to proceed with these complaints by law. See NRS 1.428 (defining "Judge") and NRS 1.4655(2) (statute of limitations). Of the remaining five (5) complaints filed over which the Commission had jurisdiction during the 2020 election cycle, they were dismissed by the Commission without investigation for various reasons, including lack of evidence rising to the requisite "objectively verifiable evidence" standard set forth in NRS 1.4657(1) or because the Nevada Revised Code of Judicial Conduct (including the Comments) did not expressly prohibit or address the conduct alleged.

Although the Commission did not authorize any investigations during the 2020 election

cycle, it was not because the Commission made a decision prior to or during the 2020 election cycle that it would not investigate any election complaints (as alleged in the Agenda discussed at the ADKT Commission meeting on June 20, 2022), but rather was based on the facts and law in each of those respective cases. It is also important to note that Rule 11 (Investigation) of the Commission's Procedural Rules, permit Commission staff to "perform minimal investigation as may be necessary to aid the Commission in properly reviewing a complaint." See Commission Procedure Rule 11(1). This may involve obtaining additional information and documents from complainants as necessary and warranted, as well as requesting court records, transcripts and JAVS recordings from courts throughout Nevada. Accordingly, every case received by the Commission undergoes a preliminary investigation; however, "[a] full investigation may not commence without Commission authorization." See Commission Procedural Rule 11(2).

6. Please identify what role, if any, the Nevada Secretary of State's Office ("SOS") has in policing and disciplining for election misconduct (which it is tasked to do under the law), particularly given that the SOS governs the enforcement of NRS Chapter 294A (Nevada's Campaign Practices Act) and has a much larger budget and many more resources than the Commission.

As one of the smallest agencies in the State of Nevada, and as noted by Justice Hardesty during the June 20th ADKT Commission meeting, budgetary funding and resources have always been and will continue to be a challenge for the Commission even under present circumstances, but even more so if significant changes are made to the Commission's duties and responsibilities going forward.

If possible, please provide responses to the foregoing questions by Friday, July 22, 2022, so they can be considered and further discussed at the next meeting of the ADKT Commission scheduled for July 28, 2022.

Your assistant, Ms. Skill, previously indicated that you need the attached information set forth in this email for your planned presentation at the next ADKT Commission meeting on the 28th. To further facilitate discussion and understanding of the issues among the ADKT Commissioners, it would also be helpful if you further addressed the requested responses to the questions above in your planned presentation.

********* In a separate email to follow, additional information will be provided which will address some of the other topics discussed at the ADKT Commission meeting held on June 20, 2022. It is hopeful that this additional information will further assist the ADKT Commission in its consideration of the current proposals.

Thank you,

Paul

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From: Skill, Caity <Caity.Skill@washoecourts.us>
Sent: Thursday, June 30, 2022 10:38 AM
To: Kadie Seghieri <kseghieri@judicial.nv.gov>
Subject: 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.

Hi Katie,

Thank you for returning my call. Please allow this correspondence to memorialize our conversation.

Judge Riggs is requesting a copy of the public, formal complaint for each of the judges subject to the public judicial discipline process from 2016 forward. As well as the appointment and reappointment dates for each of the Regular Commission Members and all Alternate Members (judge, attorney, and lay members) and the written policy or procedure for reappointment of members of the commission, or if there is nothing in writing, a description of that procedure.

If possible, we are asking for all requested items by July 15, 2022. Please do not hesitate to contact me with any questions or concerns.

Sincerely,
Caity

Caity Skill
Judicial Assistant to Hon. Tammy M. Riggs
Second Judicial District Court
Department 3
75 Court Street
Reno, NV 89501
Phone: (775) 328-3189



From: [Paul Deyhle](mailto:Paul.Deyhle@washoecourts.us)
To: tammy.riggs@washoecourts.us
Cc: [Parraguirre, Justice Ron](mailto:Parraguirre.Justice.Ron@washoecourts.us); [Hardesty, Justice James](mailto:Hardesty.Justice.James@washoecourts.us); david.hardy@washoecourts.us; dentonm@clarkcountycourts.us; tstockard@churchillcourts.org; RichardGlasson@gmail.com; elana.graham@clarkcountynv.gov; drakulichg@reno.gov; ritchiea@clarkcountycourts.us; khiggins@washoecounty.us; batemans@clarkcountynv.gov; sam.bateman@clarkcountynv.gov; ann.zimmerman@clarkcountynv.gov; bmbrown@lasvegasnevada.gov; lyn@lbeeggslaw.com; DKennedy@BaileyKennedy.com
Subject: ADKT 0582 Commission - Reply to Judge Tammy Riggs" Request for Information dated June 30, 2022 (Email 2 of 2)
Attachments: [image001.png](#)
[2018.11.11 Prehearing Order 2017-119-P.pdf](#)
[2020.06.03 Respondent's Answering Brief.pdf](#)
[2018.04.04 Order Denying Motion to Transfer Hearing to Las Vegas, Nevada or, in the Alternative, to.pdf](#)
Importance: High

Dear Judge Riggs,

As noted in my previous email to you (sent a few minutes ago), below and attached are additional information and documents which will hopefully assist the ADKT Commissioners in their consideration and understanding of the proposals and issues being discussed during these ADKT Commission proceedings. This information will also address, in part, the supplemental materials (entitled "Possible Changes To: Procedural Rules of the Nevada Commission on Judicial Discipline") submitted by Judge Zimmerman and posted to the Supreme Court's website (referred to herein as the "Supplemental Materials"):

Commission's Website:

The Commission staff does not administer the Commission's website. The Commission's website is administered by the Web Enterprise Group, a subdivision of Enterprise IT Services (EITS), which is a division of the Department of Administration, an executive branch agency of the State of Nevada. The Commission only has limited usage and storage rights. The functionality, posting capabilities and storage capacity of the Commission's website are extremely limited and any changes to the existing functionality are dependent on the priorities of the Web Enterprise Group and the directives of the Governor.

In short, the Commission's website simply does not have the functionality or capacity to post every document filed in every case that resulted in public charges dating back decades. Even the Nevada Supreme Court's website does not post every document. In fact, the Supreme Court's website (under "Find-A-Case") includes a disclaimer that reads as follows: "Disclaimer: The information and documents available here should not be relied upon as an official record of action. Only filed documents can be viewed. Some documents received in a case may not be available for viewing. Some documents originating from a lower court, including records and appendices, may not be available for viewing. For official records, please contact the Clerk of the Supreme Court of Nevada at (775) 684-1600."

In Judge Zimmerman's Supplemental Materials (page 1 under "Rule 6" and page 3, under "Rule 14"), she states that "the Commission only posts what they want to post despite the fact that their website states in all capital letters "ALL DOCUMENTS ARE POSTED ON THE COMMISSION WEBSITE." This is incorrect. In the "Introduction" section of the Commission's website, it states

“ALL **AFOREMENTIONED** DOCUMENTS ARE POSTED ON THE COMMISSION WEBSITE.” The word “AFOREMENTIONED” was left out of the above quote. The “AFOREMENTIONED DOCUMENTS” are referring to the relevant sections of the Nevada Constitution, Nevada Revised Statutes, the Code of Judicial Conduct and the Procedural Rules of the Commission, as stated in the “Introduction” section. See <https://judicial.nv.gov/Discipline/Introduction/>

Please note that Commission Procedural Rule 14 and NRS 1.4687 state that upon the filing of a formal statement of charges with the Commission, other documents later formally filed with the Commission are public documents and must be accessible to the public. These documents are accessible to the public upon request as are the documents not reviewable on the Supreme Court website. The Commission is not sidestepping any rules or hiding any matters from the public. The Commission’s statutes and rules do not mandate the Commission to post to its website all filed pleadings and orders. As explained above, the Commission’s website does not have the functionality or storage capacity to post all filed pleadings and orders. During the pendency of a public trial, and to the extent it is able, the Commission posts all filed pleadings and orders under its “Pending Public Formal Statements of Charges and Answers” tab on its website. However, there are times when the Commission cannot even post all filed documents in a single case simply due to the sheer volume of documents filed.

Proposal to Provide Copy of Complaint to Judge Prior to a Response or Interview [See Judge Zimmerman’s Supplemental Materials, pages 2-3, under “Rule 12”]

Under current law and practice, the Commission provides judges with a copy of the complaint and all investigation documents, including the investigation report, interview summaries, interview transcripts, interview audio recordings, as well as any other information considered by the Commission in determining that a judge is required to respond to a complaint, except attorney-client recommendations provided to the Commission by Commission counsel which are confidential by law. The complaint and all above-mentioned documents and recordings are provided to judges prior to a judge having to confidentially respond to a Commission complaint.

However, Judge Zimmerman is proposing in her Supplemental Materials that the Commission provide a copy of the complaint prior to a Commission authorized interview. The Commission is not required by law to provide a judge with a copy of the complaint prior to an investigative interview. There are many important reasons why Nevada and many other judicial discipline commission jurisdictions throughout the United States do not mandate that a judge be provided with a copy of the complaint prior to an interview. In fact, some states prohibit a judge from ever seeing the confidential complaint, even after formal charges are filed and a trial is conducted. This very issue was briefed before the Nevada Supreme Court in *Tobiasson v. Nevada Commission on Judicial Discipline* (Sup. Ct. Case No. 80904). Please note that the Nevada Supreme Court dismissed the forgoing Writ Petition not on the merits, but on grounds of mootness. See Order Dismissing Petition filed on October 8, 2020. Nevertheless, attached is a copy of the Commission’s Answering Brief filed with the Supreme Court on June 3, 2020, which discusses many of the issues involved.

Proposal to Require the Commission to Set a Hearing that is Mutually Agreed Upon by the Parties and the Commission [See Judge Zimmerman’s Supplemental Materials, page 3, under “Rule 16.”]

Formal Hearing” and pages 4-5, under “Rule 26”]

Judge Zimmerman states in her Supplemental Materials that “[h]istorically, there has been no input allowed on the part of Respondent and his/her counsel as to scheduling.” This is incorrect. One of the first steps taken by the Commission following the filing of public charges is to determine how many days and hours are needed by the parties to present their respective evidence during the hearing. Without this information, the Commission can neither identify nor request and reserve an available venue for trial. Moreover, there are seven (7) Commissioners located throughout Nevada, along with Commission staff, the judge and defense counsel, the Commission’s Prosecuting Officer, witnesses and a court reporter, whose availability must all be determined months in advance. If one person or venue is unavailable on a proposed date(s), then this undertaking must start again from scratch. This process is nothing short of herding cats.

Consequently, the Commission does not set the hearing dates until the Commission’s Prosecuting Officer and judge’s counsel agree on the number of days for the hearing and the hours allotted to each side to present evidence. This is agreed to by all parties in advance. See, for example, Prehearing Order (attached), p.3, ln. 21 – p.4, ln. 7. Please note that most judges adhere to their prior agreements with respect to the number of days and hours to be allotted for their hearings. However, there are some who claim several weeks or months after the issuance of a Prehearing Order that more time is needed for their defense. Knowing the difficulty of extending hearing dates or identifying new ones at such a late date, in the experience of the Commission, these requests are often made in hopes of improperly delaying hearings. When such requests are denied based on clearly defined rules of evidence and procedure (during pre-trial motion practice), some judges and their counsel argue that the Commission has violated their due process rights, when no such violation has occurred.

Proposal to Require Proper Venue to be the Jurisdiction where the Alleged Misconduct Occurred.

[See Judge Zimmerman’s Supplemental Materials, pages 3-4, under “Rule 16 (cont.)”]

Under current law, the proper venue for judicial hearings and proceedings shall be determined by the Commission. On only two (2) occasions in recent history has the Commission ever required venue for a trial to be in Reno when the judges were located in Las Vegas. Those cases were *In the Matter of the Honorable Rena G. Hughes*, Commission Case No. 2016-113-P (2016) and *In the Matter of the Honorable Melanie Andress-Tobiasson*, Commission Case No. 2014-094-P (2014). Both cases were one (1) day trials with only one or two witnesses testifying, one of them being the judge. In both cases, the judges’ motions to change venue were procedurally deficient as they lacked any affidavits to support the change in venue, the Reno location facilitated setting the hearing date in a more timely fashion, no exceptional circumstances were pleaded (as required by law) that would merit a change in venue, only minimal (same-day) travel was required, and the judges failed to disclose the substance of the testimony of their potential witnesses or explain the relevance of their expected testimonies. It was also unclear if some of the potential witnesses would even be allowed to testify based upon relevance and duplicity grounds pursuant to NRS 48.025 and NRS 48.035. For example, attached is a copy of the Commission’s Order Denying Motion To Transfer Hearing To Las Vegas, Nevada Or, In The Alternative, To Do Said Hearing By Video, issued by District Court Judge Jerome Polaha (as Presiding Judge) on April 4, 2018.

In all other cases before the Commission, the venue was determined to be where the judge was located and venue was never challenged. The foregoing cases were the only exceptions, not the rule governing decades of Commission practice. The Commission exercised its discretion in administering its own procedural rules in such a manner as it deemed necessary under the circumstances and, thus, required that the one-day trials be held in Reno instead of Las Vegas. Judge Zimmerman’s statement in the Supplemental Materials that “[h]istorically, Motions for Change of Venue are routinely denied” is incorrect. No motions for change of venue were filed in any other case, except for the cases in *Hughes* and *Tobiasson* (as discussed above).

Proposal to Require Commission to Rule on Pre-Hearing Motions. [See Judge Zimmerman’s Supplemental Materials, page 4, under “Rule 24” and “Example 3 – Pre-Hearing Motions?”]

Judge Zimmerman states that “[t]here is currently no time limit for the Commission to rule on pre-hearing motions thereby depriving the Respondent the opportunity to appropriately prepare for the hearing. The current practice is to rule on pre-hearing motions immediately prior to the start of the hearing.” This is incorrect. In practice, the Commission issues a Prehearing Order (attached) shortly after the filing of public charges, which provides adequate time for both parties to file prehearing motions prior to trial. In fact, several months elapse from the filing of public charges to the commencement of a trial on the merits. A judge can file a prehearing motion immediately after the filing of public charges if desired. The only situation where pre-hearing motions are not ruled upon by the Commission prior to trial is when the judge waits until the last second and chooses to file such motions late. The opposing party (the Commission’s Prosecuting Officer) needs adequate time to oppose and/or reply to such motions, and the Commissioners need time to confer and rule on the same.

Please note that the Commission is comprised of seven (7) volunteer citizens (judges, lawyers and laypersons) located throughout Nevada. These Commissioners should be entitled to a certain measure of discretion in administering the Commission’s own procedural rules for the orderly transaction of proceedings before it when in a given case the ends of justice require it. In sum, a judge has several months to file prehearing motions prior to trial. See Commission’s Prehearing Order (attached), page 2, lines 3-5.

Judge Zimmerman also states on page 4 of the Supplemental Materials, under “Rule 24” and “Example 2 – Interrogatories?” that “[t]he Commission promulgates Interrogatories and compels an Answer PRIOR to the filing of Formal Statement of Charges.” Under current Nevada law, which is also consistent with the laws of every judicial discipline commission in the United States, a judge is required to confidentially answer a complaint prior to the filing of public charges. See NRS 1.4667(3) and Commission Procedural Rule 12. However, with respect to “promulgating Interrogatories”, the Commission has ceased that long-standing practice upon the issuance of the Nevada Supreme Court’s Order Granting In Part and Denying In Part Petition for Writ of Mandamus or Prohibition in *Tobiasson v. Nevada Commission on Judicial Discipline* (Supreme Court Case No. 77551), filed on May 10, 2019. However, in that Order, even the Nevada Supreme Court acknowledged that “[a] judge must also ‘respond to [a] complaint in accordance with procedural rules adopted by the Commission. NRS 1.4667(3).’”

Moreover, on page 4 of the Supplemental Materials, under “Rule 24”, Judge Zimmerman asks “[w]hat remedy if the procedural rules of the Commission conflict with the Nevada Rules of Civil Procedure? Under NRS 1.462(2), “[e]xcept as otherwise provided in NRS 1.425 to 1.4695, inclusive, or in the procedural rules adopted by the Commission, after a formal statement of charges has been filed, the Nevada Rules of Civil Procedure apply.” Accordingly, the Nevada Rules of Civil Procedure apply unless the Commission’s statutes and procedural rules provide otherwise.

Proposal to Require Commission Meeting Minutes to be Made Public and Posted on the Commission’s Website. [See Judge Zimmerman’s Supplemental Materials, page 2, under “Rule 6”]

Judge Zimmerman states that “[t]his portion of the rule should be amended to require that meeting minutes should be made public and posted on their website. This is a publicly funded body and should not be permitted to operate in total secrecy.” This portion of Rule 6 also mirrors NRS 1.4687(3), which states “[t]he Commission’s deliberative sessions must remain private and any minutes of such sessions must remain confidential.” *See also* NRS 1.4683, which states “[e]xcept as otherwise provided in this section and NRS 1.4675 and 239.0115, the existence of a proceeding of the Commission must remain confidential until the Commission makes a determination pursuant to NRS 1.467 and the special counsel files a formal statement of charges.”

Although the press and the public would most certainly celebrate such a change to the Commission’s statutes and procedural rules, I am doubtful that the overwhelming majority of judges at any level of the Nevada judiciary would be comfortable with the public disclosure of confidential meeting minutes concerning confidential complaints filed against them.

Furthermore, on page 2 of the Supplemental Materials, under “Rule 10”, Judge Zimmerman asks “[w]ho is the Commission staff that reviews the complaints? What are the objective criteria or checklist for said review? Commission staff consists of administrative staff/paralegals and attorneys. Commission staff reviews complaints, enters all information in the Commission’s case management system, conducts preliminary investigations as warranted and prepares confidential recommendations for review by the Commission at its quarterly meetings. Commission staff ensures from the outset that the Commission has jurisdiction to review and take action on the complaints (includes, among other things, making certain the complaint is against a “judge” within the meaning of NRS 1.428, and that the statute of limitations has not passed pursuant to NRS 1.4655(2). Commission attorneys prepare confidential recommendations to the Commission which incorporate factual and legal analyses based on the complaint filed, relevant provisions of the Nevada Revised Code of Judicial Conduct, Nevada Revised Statutes, Commission Procedural Rules, and applicable case law, as well as a recommended course of action.

Proposal to Narrowly Tailor Rule 4 Concerning Privileged Communications. [See Judge Zimmerman’s Supplemental Materials, page 1, under “Rule 4”]

The Nevada Constitution, art. 6, sec 21(5) mandates that “[t]he Legislature shall establish: (d) the confidentiality or nonconfidentiality, as appropriate, of proceedings before the Commission,” Likewise, NRS 1.4695 provides that “[t]he Commission shall adopt rules to establish the status of

particular communications related to a disciplinary proceeding as privileged or nonprivileged.” Commission Procedural Rule 4 is consistent with the Nevada Constitution, NRS 1.4695 as well as NRS 1.4683(4), which further provides that “[t]he confidentiality required pursuant to subsection 1 also applies to all information and materials, written or oral, received or developed by the Commission, its staff or any independent contractors retained by the Commission [to include investigators and prosecuting officers] in the course of its work and relating to the alleged misconduct or incapacity of a judge.”

Judge Zimmerman states that “the investigator, prosecutor, and judge/jury can have unlimited communication and it will be considered privileged?” The Commission’s independent investigators and prosecuting officers have no contact or communications with any of the Commissioners [judge/jury] during the course of their Commission case engagements. The Commissioners (i) review the investigation reports and related materials (at its quarterly meetings) submitted by the independent investigators; (ii) review the prehearing motions submitted by both prosecuting officers and defense counsel prior to trial and issue related orders; and (iii) observe the independent prosecuting officers appearing before them during a trial on the merits, all in accordance with current law.

Please note that the Commission will take under consideration any recommendations made by the ADKT Commission related to proposed changes to the Commission’s Procedural Rules pursuant to its constitutional authority.

Gender Statistics [in reference to Agenda item C discussed at the ADKT Commission meeting held on June 20, 2022]

From 1992 to 2021, 30% of the discipline imposed by the Commission were against female judges, while 70% were against male judges. Among the female judges disciplined, 60% of the complaints were filed by females. Among the 30% of complaints filed against female judges, 25% were initiated or filed by female judges (i.e., a female judicial colleague of the disciplined female judge) or female court staff. Among the 25% of the complaints initiated or filed against female judges by female judges or female court staff, 10% of the filed complaints were by female judges.

Other Statistics

Historically, a significantly higher number of complaints filed with the Commission are against district court judges, not limited jurisdiction judges. See, for example, the FY 2020 – FY 2021 Biennial Report located on the Commission’s website under the “Annual and Biennial Reports” tab. In FY 2020, 66% of the complaints filed with the Commission were against district court judges, compared to 23% for limited jurisdiction judges (refer to Exhibits to Biennial Report). Likewise, in FY 2021, 58% of the complaints filed were against district court judges, compared to 35% for limited jurisdiction judges (refer to Exhibits to Biennial Report). Moreover from 2013 to 2021, the Commission imposed discipline against 17 district court judges, compared to 20 limited jurisdiction judges.

Other statistics and reporting information gathered by the Commission are set forth in the body of and exhibits to its Annual and Biennial Reports located on the Commission’s website under the

“Annual and Biennial Reports” tab.

Thank you,

Paul

Paul C. Deyhle

General Counsel and Executive Director

Nevada Commission on Judicial Discipline

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BEFORE THE NEVADA COMMISSION ON JUDICIAL DISCIPLINE

STATE OF NEVADA

In the Matter of)
THE HONORABLE MARTIN HASTINGS,)
Municipal Court Judge, Las Vegas Municipal)
Court, Dept. 6, County of Clark County,)
State of Nevada,)
Respondent.)

CASE NO. 2017-119-P

PREHEARING ORDER

TO: THE HONORABLE MARTIN HASTINGS, Respondent
WILLIAM B. TERRY, ESQ., Counsel for Respondent
BRIAN HUTCHINS, ESQ., Prosecuting Officer

The purpose of the hearing will be to determine whether, pursuant to NRS 1.4673, there is clear and convincing evidence to show that Respondent violated the Revised Nevada Code of Judicial Conduct, as is alleged in the Formal Statement of Charges filed by Prosecuting Officer Brian Hutchins on or about July 24, 2018, and whether discipline is appropriate. Pursuant to Commission Procedural Rule 3(4), five (5) or more members must concur in a vote to discipline Respondent.

Within ten (10) days after service of this Prehearing Order, the Parties shall exchange certain material and information as set forth in Commission Procedural Rule 19.

A one (1) day hearing in this case will take place in Las Vegas, Nevada, on such date to be set by the Commission pursuant to Commission Procedural Rule 18(1).

Not less than thirty (30) days before the hearing, the Parties may submit a written request for the Commission to issue subpoenas for the production of documents or to compel attendance or testimony of the witnesses, if any, pursuant to NRS 1.466, Commission Procedural Rule 20, and NRCPC 45.

All pleadings, including accompanying legal memoranda, submitted in support of any motion shall be limited to: fifteen (15) pages in length for the opening motion; fifteen (15) pages for the opposition; and seven (7) pages for the reply. These limitations are exclusive of exhibits.

Not less than twenty-one (21) days before the hearing, the Parties are directed to confer in order to reach any possible stipulations narrowing the issues of law and fact, and exchange documents that

///

1 will be offered into evidence at the hearing, and/or stipulate to any or all exhibits to be introduced at the
2 hearing.

3 Not less than fifteen (15) days before the hearing, the Parties shall file all pre-trial motions,
4 including motions in limine to exclude or admit evidence.¹ No reply shall be permitted if such motions
5 are filed within twenty-one (21) days before the hearing.

6 Not less than fourteen (14) days before the hearing, the Parties shall prepare and serve
7 contemporaneously by email written prehearing briefs upon the Commission and the opposing Party.

8 The prehearing briefs shall include:

- 9 a. A brief statement of relevant facts, including any admitted or undisputed facts,
10 not to exceed one (1) page.
- 11 b. A concise statement, not to exceed two (2) pages, of the Party's allegations or
12 defenses and the facts supporting the same. Such allegations, defenses and facts
13 shall be organized by listing each essential element of the allegation or defense
14 and stating the facts in support of each such element as they relate to the Formal
15 Statement of Charges.
- 16 c. A statement of any issues of law, not to exceed two (2) pages, supported by
17 authorities with a brief summary of the relevant rule and without additional
18 argument. The Parties should emphasize any Commission opinions deemed
19 relevant and applicable.
- 20 d. The names of each witness, except impeaching witnesses, the Party expects to
21 call; a clear statement of the expected testimony of each witness and its relevance;
22 and an estimate of the time the Party will require for the testimony of each
23 witness. To the extent possible, provide an estimate of time for cross-
24 examination of the opposing Party's witnesses.
- 25 e. A list of the exhibits expected to be identified and introduced at the hearing for
26 the purpose of developing the evidentiary record and a concise statement of the
27 relevancy to the allegations, defenses and facts as stated in the statement required
28 under paragraph (b) above for each exhibit.
- f. A concise statement of any stipulations regarding the admissibility of an exhibit
or expected testimony of any witness offered by the opposing Party.
- g. A brief summary of any pre-hearing procedural or substantive motions, not to
exceed one (1) paragraph. Except for any procedural or substantive motions that
arise during the hearing, all pre-hearing procedural and substantive motions must
be submitted in accordance with this Prehearing Order.

¹ Pursuant to Commission Public Case Filing Procedures set forth in Exhibit "A" to the Commission's Procedural Rules, Procedure 1(B) mandates that service of all papers shall be by electronic means ("email"). Furthermore, Commission Procedural Rule 37 states that all time limitations shall be computed as in the Nevada Rules of Civil Procedure except that three (3) days shall not be added to the prescribed period for any notice or paper served by electronic means.

1 h. Any other appropriate comments, suggestions or information which may assist the
2 Commission in the disposition of the case, not to exceed one (1) page.

3 Not less than fourteen (14) days before the hearing, the Parties shall electronically submit to the
4 Commission their exhibit book(s), consisting of the exhibits, if any, expected to be identified and
5 introduced as evidence at the hearing. The exhibit book(s) must include an index of the exhibits and be
6 Bates numbered. Additionally, five (5) bound hardcopies of the exhibit books must be hand-delivered
7 and/or overnighted to the Commission on Judicial Discipline, P. O. Box 48, Carson City, NV 89702.
8 Each Party is responsible for providing the court reporter with an unbound set of Bates numbered
9 exhibits. The Parties shall exchange exhibit books in both electronic and hardcopy format, unless
10 otherwise agreed upon.

11 a) The Prosecuting Officer's exhibit book(s) must be tabbed and identified by numbers.

12 b) The Respondent's exhibit book(s) must be tabbed and identified by letters.

13 Within five (5) days of service of the prehearing brief, the Parties shall submit a concise
14 statement of any objections to the admissibility of any exhibit identified by the other Party and, to the
15 extent possible, the expected testimony of any witnesses. Such statement shall not exceed two (2)
16 pages. If no objection is stated as to any exhibit or expected testimony, the Commission will presume
17 that there is no objection to the admission of the listed exhibit or expected testimony into evidence.

18 The Parties shall electronically file and serve all documents not later than 5:00 p.m. on the
19 respective dates outlined herein to the Office of the Commission on Judicial Discipline at
20 ncjinfo@judicial.state.nv.us, and upon the opposing Party.

21 The hearing is scheduled for one (1) calendar day. The Prosecuting Officer will present
22 evidence regarding the basis for a finding of violations for four (4) hours. The Prosecuting Officer shall
23 include an opening statement in his presentation.

24 Respondent's counsel shall have four (4) hours to present evidence to rebut the charges as well
25 as evidence in mitigation and extenuation of discipline. Respondent's counsel shall include an opening
26 statement in his presentation. It may be reserved until the close of his case, but it may not be waived.
27 The taking of evidence will begin at 8:00 a.m. and conclude at 5:00 p.m., including an hour for lunch.
28 At the conclusion of the evidentiary phase, the Commission will entertain final arguments not to exceed

1 thirty (30) minutes by each Party. The scheduling of hours on each day is at the discretion of the
2 Commission.

3 Each Party should note that the clerk of the Commission will keep track of the time consumed
4 by each side. The time consumed in cross-examination and any re-cross examination of the other
5 Party's witness(es) will be deducted from the total time available to each Party. The Presiding Officer
6 will make adjustments to the basic time allocation as necessary. In other words, one Party will not be
7 permitted to consume the other Party's time without consequence.

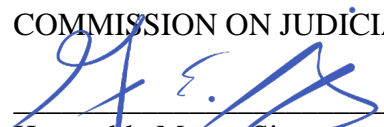
8 The rule of exclusion of witnesses will be in effect. Each Party will be responsible for ensuring
9 that any intended witness (with the exception of the Respondent) is not present for testimony during
10 any portion of the hearing. The requirement not to discuss testimony with other witnesses will be a
11 continuing duty of each witness through the conclusion of the case.

12 If, after the presentation of evidence and final arguments, the Commission anticipates that it will
13 not have sufficient time to deliberate on site, the Commission may deliberate at a later time. The
14 Commission may allow post-hearing briefs, if necessary and requested, to be filed in this matter within
15 five (5) days of the conclusion of the hearing. A final decision will be announced thereafter in a manner
16 and format consistent with appropriate practice and the law.

17 The Honorable Mason Simons is authorized to sign this Order on behalf of the full Commission.

18 IT IS SO ORDERED.

19 DATED this 11th day of November, 2018.

20 STATE OF NEVADA
21 COMMISSION ON JUDICIAL DISCIPLINE
22 
23 _____
24 Honorable Mason Simons,
25 Presiding Officer
26
27
28

1 CERTIFICATE OF SERVICE

2 I hereby certify on this 14th day of November, 2018, I transmitted a copy of the foregoing
3 PREHEARING ORDER, via email and by placing said document in the U.S. Mail, postage prepaid,
4 addressed to:

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17 Tarah L. Hansen, Commission Clerk
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Elizabeth A. Brown
Clerk of Supreme Court

IN THE SUPREME COURT OF THE STATE OF NEVADA

MELANIE ANDRESS-TOBIASSON,

CASE NO. 80904

Petitioner,

v.

NEVADA COMMISSION
ON JUDICIAL DISCIPLINE,

Respondent.

**RESPONDENT'S ANSWERING BRIEF TO PETITIONER'S
PETITION FOR WRIT OF MANDAMUS AND PROHIBITION**

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POINTS AND AUTHORITIES

I. STATEMENT OF THE ISSUES

1. Whether the Petitioner's Writ is moot given that on May 4, 2020, the Commission elected to forego an investigatory interview of the Petitioner, required the Petitioner to respond to the complaint pursuant to NRS 1.4667(3), and disclosed the underlying complaint, along with the entire evidentiary record, relied upon by the Commission in making the above-mentioned determination?

2. Whether Petitioner failed to overcome the presumption that the Commission members are honest?

3. Whether procedural due process rights attach during the Commission's investigatory stage absent a showing of actual prejudice?

4. Whether the Petitioner failed to establish that Nevada law requires the Commission to disclose the underlying confidential complaint before a judge is required to submit to an investigatory interview?

5. Whether the Commission's practice to keep the underlying complaint confidential during the investigatory stage is a reasonable interpretation of the statute because it provides protection to lawyers and members of the public who report instances of judicial misconduct?

6. Whether public policy factors demonstrate the need to keep complaints confidential prior to an investigatory interview of a Judge?

7. Whether this Court should become a Discovery Commissioner to determine whether certain questions are sufficiently related to the underlying complaint before a Judge is required to answer the Commission's interview questions?

II. STATEMENT OF THE CASE

Petitioner Andress-Tobiasson is a Justice of the Peace, Las Vegas Justice Court, Clark County, Nevada. On April 1, 2020, Judge Tobiasson filed a Writ of Mandamus and Prohibition contending that the Commission must disclose the underlying confidential complaint of judicial misconduct before she submits to an interview with the Commission's investigator so she can protect herself "against a wide-ranging, illegitimate 'ambush' as well as the potential specter of actual bias." However, Petitioner submitted no facts whatsoever to indicate that the Commission investigator intended to ambush her or that the Commission members were biased.

The Petitioner complains that the Commission failed to provide Petitioner with a copy of the complaint or notice of its contents and the charges against her. The Commission declined to disclose a copy of the complaint because Nevada law does not require the disclosure of the underlying complaint prior to an investigatory interview. The Commission's decision was consistent with its long standing practice of not disclosing the complaint prior to the investigatory interview.

The Commission's investigator and its lawyers, however, did disclose notice of the contents of the complaint as more fully explained herein. Moreover, it is

critical to note that Respondent did not and cannot disclose “the charges against her” because no charges have ever been filed against her. In fact, the Commission has not yet made a determination whether charges will be filed against her at some point in the future. The Commission cannot disclose something that does not exist.

The original Motion to Stay dated April 1, 2020, requested a stay of the pending judicial disciplinary proceedings. *See* p.1 of Motion. Judge Tobiasson, however, stipulated that “Petitioner is only seeking to stay the Commission’s interview of the Petitioner and not the Commission’s disciplinary proceedings regarding the Petitioner at this time.” *See* Corrected Stipulation dated April 14, 2020.

On May 4, 2020, the Commission determined, after a very thorough investigation, to forego the investigatory interview of the Petitioner. *See* Declaration of Paul C. Deyhle attached as Exhibit 1. Essentially, the Commission determined that based upon the substantial evidence already adduced in the investigation that an investigatory interview was unnecessary. Nevada law does not require the Commission to conduct an investigatory interview. *Id.*

Also, on May 4, 2020, the Commission voted, pursuant to NRS 1.4667(3), to require that Judge Tobiasson respond to the confidential complaint within 30 days. *Id.* Accordingly, on May 8, 2020, the Commission sent to Judge Tobiasson’s counsel of record, by United States mail, a copy of the underlying confidential complaint, along with the entire evidentiary record, including all investigation reports, witness interview transcripts, audio-recordings of Petitioner’s media interviews, and

documentary evidence relied on by the Commission in making the above-mentioned determination. *Id.* Accordingly, the Writ is moot as explained below.

III. STATEMENT OF FACTS

In her Writ, Judge Tobiasson falsely asserts that she lacks information to prepare for an interview with the Commission's investigator. The Commission's investigator and Executive Director informed the Judge's prior counsel, William Terry, that Connie Land, a former friend of the Judge, filed the underlying complaint against the Judge and that the general subject areas of the current investigation relates to her conduct in connection with Ms. Land. The investigator and Executive Director also advised counsel that the investigation involved the Judge's admissions of judicial misconduct which the Judge disclosed in various interviews with news reporters. *See* Exhibits 1 and 2, Declarations of Commission Executive Director and Investigator. The Commission's Counsel also informed Judge Tobiasson's current attorney of the general subject matters of the interview. *See* Exhibit 3, Declaration of Thomas C. Bradley. These interviews were publicized beginning in 2018. *See* Exhibit 4.

In those interviews, Judge Tobiasson openly discussed her willingness to flout the law, stating "if I'm ever going to prison, I promise you it's going to be worth it."

Judge Tobiasson's interviews disclose the following admissions: In the summer of 2015, Judge Tobiasson's daughter began to frequent an unlicensed club called Top Notch. After learning about the club, the Judge staked out the

establishment, where she recorded license plate numbers and vehicle make and models of patrons. The Judge even trailed the patrons to determine where they lived. Later in 2015, the Judge determined that Shane Valentine was running an underage prostitution ring out of Top Notch. Judge Tobiasson then began to contact a number of Metro vice detectives and insisted that they investigate and prosecute Valentine. At times, the Judge would discuss her concerns about Valentine when vice detectives appeared in her chambers to request search warrants in unrelated cases.

When Judge Tobiasson learned that Valentine had been attempting to contact her daughter, the Judge telephoned Valentine's lawyer and threatened that if Valentine calls her daughter again, "she will take care of it herself" because the police were not helping. She also stated that on one occasion she went to Shane Valentine's house and kicked in his door.

In October 2016, after two people were murdered at Top Notch, the Judge began to personally investigate the case because she believed that Valentine had committed the murders. In 2017, she contacted Connie Land, the mother of one of the murder victims, and convinced her to transmit all of the text messages that: (1) Ms. Land had exchanged with her daughter prior to her death and (2) all the text messages Ms. Land exchanged with the police detectives who were investigating her daughter's murder. The Judge even utilized "burner" telephones to secretly communicate with Ms. Land and others. Judge Tobiasson also claimed that: (1) some of the Metro vice detectives were protecting certain pimps in exchange for bribes

and sex with prostitutes and (2) that the police forced a witness to allege that she [Judge Tobiasson] bribed the witness to falsely implicate Valentine.

IV. LEGAL ARGUMENT

A. The Petitioner's Writ is Moot

The question of mootness is one of justiciability. *See* Personhood Nevada v. Bristol, 126 Nev. 599, 602, 245 P.3d 572, 574 (2010). Moreover, in University Sys. v. Nevadans for Sound Gov't, this Court stated:

Normally, a controversy must be live through all stages of the proceeding. “[T]he duty of every judicial tribunal is to decide actual controversies by a judgment which can be carried into effect, and not to give opinions upon moot questions or abstract propositions, or to declare principles of law which cannot affect the matter in issue before it.” Thus, this court has long recognized that cases presenting live controversies at the time of their inception may become moot by the occurrence of subsequent events.

See 120 Nev. 712, 720 (2004) (*quoting* from Nat'l Collegiate Athletic Ass'n v. Univ. of Nevada, Reno, 97 Nev. 56, 57, 624 P.2d 10 (1981); *see also* Langston, 110 Nev. at 344(court held appeal was moot because it was unable to grant effective relief with respect to the injunction at issue).

The original Motion to Stay dated April 1, 2020, requested a stay of the pending judicial disciplinary proceedings. *See* p.1 of Motion. Judge Tobiasson, however, stipulated that “Petitioner is only seeking to stay the Commission’s interview of the Petitioner and not the Commission’s disciplinary proceedings regarding the Petitioner at this time.” *See* Corrected Stipulation dated April 14, 2020.

On May 4, 2020, the Commission determined, after a very thorough investigation, to forego the investigatory interview of the Petitioner. *See* Declaration of Paul C. Deyhle attached as Exhibit 1. Essentially, the Commission determined that based upon the substantial evidence already adduced in the investigation that an investigatory interview was unnecessary. Nevada law does not require the Commission to conduct an investigatory interview. *Id.*

Also, on May 4, 2020, the Commission voted, pursuant to NRS 1.4667(3), to require that Judge Tobiasson respond to the confidential complaint within 30 days. *Id.* Accordingly, on May 8, 2020, the Commission sent to Judge Tobiasson's counsel of record, by United States mail, a copy of the underlying confidential complaint, along with the entire evidentiary record, including all investigation reports, witness interview transcripts, audio-recordings of Petitioner's media interviews, and documentary evidence relied on by the Commission in making the above-mentioned determination. *Id.*

Accordingly, because the Commission (1) elected to forego an optional investigatory interview of the Petitioner and (2) has disclosed not only the underlying complaint but also the entire evidentiary record, the Petitioner's Writ is now moot. In other words, the object of the Petitioner's Writ was an order requiring the Commission to disclose the underlying complaint. The complaint was disclosed by the Commission on May 8, 2020. Accordingly, the object of the Petitioner's Writ is clearly moot.

B. The Petitioner Failed to Overcome the Presumption that the Commission Members are Honest

Judge Tobiasson contends that the Commission must disclose the underlying confidential complaint of judicial misconduct before she submits to an interview with the Commission’s investigator so she can protect herself “against a wide-ranging, illegitimate ‘ambush’ as well as the potential specter of actual bias.” Judge Tobiasson, however, fails to submit any evidence that the Commission intends to “ambush” her or is biased against her.

In Mosley v. Nevada Comm'n on Judicial Discipline, this Court determined that the Judge had failed to demonstrate a risk of actual bias. *See* 117 Nev. 371, 380–81 (2001). The Mosley Court stated that to demonstrate such a risk, aggrieved parties must first overcome a presumption that the adjudicators are honest.

The Court further determined that the Judge failed to offer any evidence suggesting that the Commission members are dishonest, biased, or prejudiced in any manner. Mosley, 117 Nev. at 371. The Court concluded that the Judge failed to overcome the presumption that the commissioners are unbiased. *Id.*

Accordingly, the Mosley Court stated that: “Without a showing to the contrary, state adjudicators ‘are assumed to be [people] of conscience and intellectual discipline, capable of judging a particular controversy fairly on the basis of its own circumstances.’ ” *Id.* (quoting United States v. Morgan, 313 U.S. 409, 421, 61 S.Ct. 999, 85 L.Ed. 1429 (1941)).

The Mosley Court found that because the Judge failed to overcome the assumption of honesty or provide any evidence of bias, the Court concluded that the Judge's rights to due process were not infringed. *Id.*

Just as in Mosley, the Petitioner in this case has failed to provide any evidence that the Commission intends to engage in a wide-ranging, illegitimate ambush of the Judge. Nor has the Petitioner submitted any evidence of actual bias. Given the lack of any supporting evidence, this Court should conclude that Judge Tobiasson failed to overcome the presumption that the Commission members are honest and failed to show any risk of bias. Thus, the Writ should be denied because there is no evidence or indication that Judge's due process rights may be infringed.

C. Procedural Due Process Rights Do Not Attach During the Investigatory Phase Absent a Showing of Actual Prejudice

Procedural due process rights attach at the adjudicatory stage, and not during the investigatory phase of the judicial discipline process. Jones v. Nev. Comm'n on Jud. Discipline, 130 Nev. 99, 106–107, 318 P.3d 1078, 1083 (2014). Judicial discipline proceedings consist of two distinct phases, one investigatory and the other adjudicatory, wherein the investigatory phase is confidential, and the adjudicatory phase is public. *Id.* "It is during this [adjudicatory] phase that the judge's legal rights are adjudicated, not before. Accordingly, due process rights will generally not attach before a formal statement of charges is filed." *Id.*

The Jones Court stated:

We agree that due process rights generally do not attach during the investigatory phase of judicial discipline proceedings, as this will allow the investigation to proceed unimpeded until the Commission has determined whether formal charges should be brought. Allowing for unobstructed investigation furthers the Commission's goal of protecting the integrity of the judiciary and safeguarding public confidence in the judicial branch but does not unduly burden the judge's right and ability to defend. *See* NRS 1.462 (explaining that the purpose of judicial discipline is "to preserve an independent and honorable judiciary"); Flanagan, 690 A.2d at 875 ("Two interests must be accommodated in judicial disciplinary proceedings: (1) the review council must have broad authority to investigate the conduct of our judges in order to maintain public confidence in the judiciary, and (2) our judges must be afforded adequate process before discipline is imposed to ensure that discipline is not imposed on the basis of unfounded charges of misconduct."). Accordingly, due process typically will not be implicated during the investigatory stage, and Judge Jones' claimed procedural violations regarding the prehearing complaint, investigation, and time limits must be viewed in this context. As the California Supreme Court has recognized, absent due process concerns, relief from any procedural violations occurring during the investigatory stage may be obtained only by a showing of actual prejudice. Ryan, 247 Cal.Rptr. 378, 754 P.2d at 729. *Id.*

Furthermore, the Nevada Supreme Court has de novo authority over the Commission's adjudicatory decisions, thus, there is another layer of due process protection for Petitioner.

As stated above, there are only two phases of judicial disciplinary proceedings, investigatory and adjudicatory. All Commission actions before the filing of the Formal Statement of Charges ("FSOC") occur during the investigatory phase. Here, the Commission was acting in its investigatory capacity when it declined to disclose the confidential underlying complaint to the Petitioner prior to

the investigator's interview. Furthermore, the Jones decision stated that the Commission's investigation should proceed "unimpeded and unobstructed" until the Commission has determined whether a FSOC should be brought against the judge. *Id.* As previously noted, the Commission has not determined whether or not it will authorize the filing of a FSOC against the Petitioner.

In this case, the Petitioner has utterly failed to demonstrate that this Court should overrule the holding in Jones that due process rights do not attach during the investigatory phase of the judicial discipline process. Moreover, the Petitioner has failed to present any valid argument or authority from other jurisdictions to justify a complete reversal of Nevada precedent.

D. Nevada Law Does not Require Disclosure of the Underlying Complaint Prior to the Investigatory Interview

The Nevada Constitution Article 6, Section 21, provides that the Legislature shall establish the confidentiality or non-confidentiality, as appropriate, of proceedings before the Commission. *See Nev. Const. Art. VI, § 21(5)(d).*

The Legislature then enacted laws that provided the Commission's investigation, the complaint, and all information and materials retained by the Commission in the course of its work and relating to the alleged misconduct remain confidential until the Commission makes a determination pursuant to NRS 1.467 and the special counsel files a formal statement of charges. *See NRS 1.4683.* Although the Commission "may disclose" such information to persons directly

involved in the matter to the extent necessary for a proper investigation and disposition of the complaint, there is no statutory requirement to disclose a copy of the complaint to the Judge prior to an interview by the Commission's investigator.

Id.

Pursuant to NRS 1.4663, if the Commission determines that a complaint alleges objectively verifiable evidence from which a reasonable inference could be drawn that a judge committed misconduct, the Commission shall appoint an investigator to conduct an investigation to determine whether the allegations have merit and that such an investigation must be conducted in accordance with procedural rules adopted by the Commission and may extend to any matter that is, in the determination of the Commission, reasonably related to an allegation of misconduct contained in the complaint.

Moreover, pursuant to NRS 1.4667(3), if the Commission determines that such a reasonable probability that the evidence available for introduction at a formal hearing could clearly and convincingly establish grounds for disciplinary action against a judge exists, the Commission shall require the judge to respond to the complaint in accordance with procedural rules adopted by the Commission.

The Constitution granted the Commission authority to adopt rules of procedure for the conduct of its hearings and any other procedural rules it deems necessary to carry out its duties. *See Nev. Const. Art. VI, § 21(7).*

Specifically, the Commission Procedural Rule 12 provides that if the Commission determines, after an investigation, that there is a reasonable probability the evidence available for introduction at a formal hearing could clearly and convincingly establish grounds for disciplinary action, it shall require the Judge to respond to the complaint within 30 days and the Judge shall then have the right to inspect all records of the Commission relating to the disciplinary action and to be fully advised as to the contents of such records.¹ Accordingly, the Commission is not required to disclose the confidential complaint prior to the Commission's investigatory interview of the Judge.

In conclusion, even the Petitioner admits that: “It is true that there is no independently codified rule that specifically requires that a judge be provided with the initial ‘sworn complaint’ which has initiated a judicial discipline investigation prior to being directed to submit to an interview with respect thereto.” Petitioner's Reply in Support of Motion to Stay at p.2 (underscoring added).

In Sarfo v. Bd. of Med. Examiners, this Court examined whether due process required the disclosure of a confidential complaint during the investigatory stage. *See* 134 Nev. 709, 710, (2018). In that case, a medical doctor received a letter from the Nevada State Board of Medical Examiners (the Board) informing him that a

¹ Commission Procedural Rule 12, along with the other Commission Procedural Rules, formed part of the Nevada Supreme Court Rules for decades prior to the Commission adopting such Rules in 2003 by Constitutional Amendment. *See* Declaration of Paul Deyhle, Exhibit 1.

complaint had been filed against him. *Id.* The Board did not identify the complainant or specify the claims, only noting that it would not determine whether there had been a violation of the Medical Practice Act until it completed its investigation. *Id.* The doctor filed a writ petition arguing that the Board violated his due process rights by keeping the actual complaint and identity of the complainant confidential.

The Sarfo Court held that although the Nevada Constitution requires that no person shall be deprived of life, liberty, or property, without due process of law, due process was not implicated because the Board was merely performing investigatory fact-finding with no power to deprive the doctor of his liberty interest. *Id.*

The Sarfo Court relied, in part, on the fact that different Board members sit on the investigative committee than on the adjudicatory committee. *Id.* The Nevada Supreme Court, however, has repeatedly affirmed the Judicial Commission may perform combined functions.² In Mosley v. Nevada Comm'n on Judicial Discipline, the Court noted that the legislature successfully obtained an amendment to the

² According to Sarfo, upon receipt of the initial complaint filed by a member of the public against a doctor, (1) the Board must designate an investigating committee composed of Board members to conduct an investigation and (2) the investigative committee of Board members has no disciplinary powers and can only file a formal complaint with the Board if it concludes that the complaint has a reasonable basis. Unlike the Medical Board, Judicial Commissioners do not personally conduct investigations. Rather, the investigations are conducted by an independent investigator. Moreover, the Judicial Commissioners cannot file formal charges against a judge. Instead, an independent prosecuting officer must file formal charges against a judge, but only after attesting under oath that the evidence gathered supports such a filing of formal charges. Thus, the existence of an independent investigator and an independent prosecuting officer drastically distinguishes this case from Sarfo and provides the necessary protections of due process to a judge during the investigatory phase that would stem from a combined system. Moreover, the Commission does provide the judge with a copy of the complaint after the interview if the Commission votes to require that the judge should respond to the complaint.

Nevada Constitution's provisions governing judicial discipline in this state. *See* 117 Nev. 371, 379 (2001). Among other provisions, the procedural framework expressly requires the Commission to assign or appoint an investigator to conduct an investigation to determine whether the allegations against a judge have merit and that once the Commission makes the threshold probable cause determination, the Commission must then designate a prosecuting attorney to act in a formal disciplinary hearing. *Id.* The Mosley Court concluded that the legislative intent manifested in the amendment process is that, although a “court of judicial performance,” the Commission may exercise, to a degree, a combination of investigative, prosecutorial and adjudicative functions. *Id.* Finally, the Mosley Court held that Judge Mosley failed to demonstrate that the commingling of functions in this case poses a risk of actual bias. *See also* Matter of Davis, 113 Nev. 1204, 946 P.2d 1033 (1997)(court held that the Commission's combined duties of determining probable cause and adjudicating the merits of a complaint against a judge did not violate due process).

In Sarfo, the Board argued that keeping the complaint and complainant confidential from the licensee is a reasonable interpretation of the statute and that if it is required to disclose the identity of the complainant to the licensee, members of the public would be more hesitant to file complaints against their doctors, which would undermine the Board’s duty to regulate the medical profession. *Id.* The doctor

argued that the Board was keeping the investigation more confidential than the statute requires. *Id.*

The Sarfo Court pointed out that nothing in the statute says that the complaint and complainant must be disclosed to the licensee in the investigatory phase and noted that keeping the complaint fully confidential, even from the licensee, is a reasonable interpretation of the statute's plain language and that disclosing the complaint and complainant may make patients hesitant to report malpractice without the protection of confidentiality. *Id.*

In this case, NRS 1.4683(1) provides that "... the existence of a proceeding of the Commission must remain confidential until the Commission makes a determination pursuant to NRS 1.467 and the special counsel files a formal statement of charges." NRS 1.4683(2)(a) provides that the Commission may disclose such information to persons directly involved in the matter to the extent necessary for a proper investigation and disposition of the complaint. The statute, however, does not clearly require the disclosure of the complaint to the judge who is being investigated.

When interpreting a statute, the Court looks first to its plain language and if the language is clear and unambiguous, the court does not look beyond it. *See Dep't of Bus. & Indus., Fin. Institutions Div. v. TitleMax of Nevada, Inc.*, 135 Nev. 336, 340–41, 449 P.3d 835 (2019). Accordingly, there is no requirement under Nevada law to disclose the underlying confidential complaint to the petitioner.

E. The Commission’s Practice to Keep the Underlying Complaint Confidential During the Investigatory Stage is a Reasonable Interpretation of the Statute because it Provides Protection to Lawyers and Members of The Public Who Report Instances of Judicial Misconduct

The Nevada Supreme Court reaffirmed its deference to an agency’s interpretation of its statutes and regulations regarding investigative practices in Sarfo v. Bd. of Med. Examiners, 134 Nev. 709, 429 P.3d 650, 654 (2018). This Court stated that “[W]hen the language of a statute is plain and unambiguous, and its meaning clear and unmistakable, there is no room for construction, and the courts are not permitted to search for its meaning beyond the statute itself.” *Id.* (internal quotation marks omitted). We will “nonetheless defer to an agency’s interpretation of its governing statutes or regulations if the interpretation is within the language of the statute.” *Id.*

Such deference has been applied in judicial discipline cases. *See* Goldman v. Bryan, 106 Nev. 30, 44, 787 P.2d 372, 381–82 (1990)(holding that Commission Procedural Rule 24 “should be read and interpreted in light of all the procedures set forth in the [Procedural] Rules and the purpose of those procedures.”).

Accordingly, because the Commission’s interpretation of NRS 1.4683, is “within the language of the statute” and “its meaning clear and unmistakable” then the Nevada Supreme Court should defer to the Commission’s interpretation. *See* Taylor v. Dep’t of Health & Human Servs., 129 Nev. 928, 930, 314 P.3d 949, 951 (2013).

F. Public Policy Factors Demonstrate the Need to Keep Complaints Confidential Prior to An Investigatory Interview

Although Judicial Code Rule 2.16(b) provides that a Judge shall not retaliate against a person who assists or cooperates with an investigation of a Judge, sadly, it occurs with some frequency.

Attorneys have been targets of judicial reprisals through the filing of attorney discipline complaints, adverse rulings, and public criticism. *See, e.g., In re Cerbone*, 2 N.Y.3d 479, 482, 812 N.E.2d 932, 933 (2004)(judge removed from office in part because he retaliated against lawyer who filed judicial complaint against him); *In re Conduct of Ginsberg*, 690 N.W.2d 539, 549 (Minn. 2004)(judge's retaliation against the attorneys who filed complaints reflect a disrespect for the disciplinary process); *In re Terry*, 262 Ind. 667, 675, 323 N.E.2d 192, 197 (1975)(judge punished attorneys who file complaints by delaying their cases); and *In re Conduct of Schenk*, 318 Or. 402, 407, 870 P.2d 185, 190 (1994)(judge called complaining attorney and asked who made him God's gift to the legal profession).

Judges have also retaliated against litigants and witnesses who filed judicial misconduct complaints. *See, e.g., In the Matter of Rodella*, 2008-NMSC-050, ¶ 13, 144 N.M. 617, 622, 190 P.3d 338, 343 (after litigants complained that judge was impatient, judge had authorities initiate investigation whether litigants were guilty of forgery); *Matter of Drury*, 602 N.E.2d 1000, 1001 (Ind. 1992)(judge concocted a plan to retaliate against complainants by harming their business); *Mississippi*

Comm'n on Judicial Performance v. Brown, 918 So. 2d 1247, 1251 (Miss. 2005)(when complainant refused to withdraw judicial complaint, judge threatened complainant's continued employment); and Mississippi Comm'n on Judicial Performance v. Bishop, 761 So. 2d 195, 196 (Miss. 2000)(judge conspired with jailor to harass and intimidate the family of the minor who made sexual misconduct allegations against judge).

Court staff members are also vulnerable to retaliation. *See, e.g.,* Halverson v. Hardcastle, 123 Nev. 245, 256 (2007)(judge hired her own bodyguards who posed a potential danger to the judges, the public, and the justice center's occupants); In re Tidd, 175 A.3d 1151, 1156 (Pa. Ct. Jud. Disc. 2017)(judge forcefully berated the court clerks about complaints made to the Board concerning his treatment of them); Fletcher v. Comm'n on Judicial Performance, 19 Cal. 4th 865, 968 P.2d 958 (1998) (judge retaliated against public defender by refusing to appoint her as defendant's counsel after she indicated her intent to seek judge's disqualification); In re Brown, 4 N.E.3d 619, 627–28 (Ind. 2014), as corrected (Mar. 5, 2014), (judge issued disciplinary warnings to employees in retaliation for those employees cooperating with the judicial Commission); In re Danikolas, 838 N.E.2d 422, 430 (Ind. 2005)(judge discharged magistrate in retaliation for her cooperation with Commission); and Matter of Disciplinary Proceeding Against Buchanan, 100 Wash. 2d 396, 669 P.2d 1248 (1983)(judge terminated employment of staff members who filed complaints).

Judges have also attempted to influence the testimony of potential witnesses in judicial discipline investigations. *See, e.g., Doan v. Comm'n on Judicial Performance*, 11 Cal. 4th 294, 332, 902 P.2d 272, 291 (1995), as modified (Nov. 6, 1995)(judge asked witness not to cooperate with Commission).

Moreover, the Commission's decision not to disclose the underlying confidential complaint was consistent with its long standing practice of not disclosing the complaint prior to the investigatory interview.

In this case, the Commission decided to move forward with its disciplinary proceeding, in part, because there is evidence of recent witness intimidation and threats made by email and social media sites by an unknown person or persons which greatly concerns the Commission and may adversely affect any potential hearing should the Commission determine that Formal Statement of Charges should be filed in the future. To be clear, the Commission is investigating the threats but at this time is not aware of who is behind these threats. Based upon confidentiality of the investigation, the Commission is unable to provide more detail in this Brief.

In short, the Commission's ability to keep the underlying complaint confidential and, at times, declining to disclose the identity of the complainant and potential witnesses during the investigatory stage serves to avoid a substantial chilling effect on the furnishing of information to the Commission regarding possible judicial misconduct. Moreover, it promotes the purpose and intent of the confidential investigative process, which is to protect the confidentiality of the

judges who are being investigated while encouraging the filing of complaints so that the Commission may evaluate and determine whether the matter warrants further investigation and the potential filing of a Formal Statement of Charges. Finally, the foregoing practices and procedures of the Commission with respect to not disclosing copies of complaints to judges prior to an investigative interview are consistent with the laws, rules, practices and procedures of the vast majority of judicial discipline commissions throughout the country as well as decades of judicial disciplinary jurisprudence. *See* Declaration of Paul Deyhle at Exhibit 1.

G. This Court Should Not Adopt the Reasoning of the Petitioner and Thereby Become a Discovery Commissioner to Determine Whether Certain Questions are Sufficiently Related to the Underlying Complaint Before a Judge is Required to Answer the Commission’s Interview Questions

In the Petitioner’s Opposition to Motion to Dismiss the Writ, Petitioner states: “It is axiomatic that, absent pre-interview provision to the accused judge of the complaint on file against her, she and her counsel cannot effectively assess whether or not questions propounded to her are reasonably related to the precise allegations contained therein, or whether she is being subjected to a wide-ranging inquisition beyond their scope” Opposition to Motion to Dismiss the Writ at p.6.

Thus, the premise of Petitioner’s Writ is that Petitioner and her attorney may in the first instance determine the proper scope of the questions, refuse to answer questions that they determine are outside the scope of the underlying complaint, and then seek this Court’s protection by filing writs of mandamus and prohibition.

The premise of the Writ is contrary to NRS 1.4663, which provides that the “investigation must be conducted in accordance with procedural rules adopted by the Commission and may extend to any matter that is, in the determination of the Commission, reasonably related to an allegation of misconduct or incapacity contained in the complaint.” Thus, it is the Commission, not the Petitioner, who determines the scope of the investigation.

The Petitioner’s premise also completely ignores the fact that she has no right to refuse to answer questions concerning new evidence discovered during the course of the investigation. *See Jones v. Nev. Comm'n on Jud. Discipline*, 130 Nev. 99, 318 P.3d 1078 (2014)(“judges generally have no right to avoid charges based on new evidence discovered during the course of a legitimate investigation. *Flanagan*, 690 A.2d at 875–76 (explaining that there exists no right during the investigatory stage to notice of the charges or to limit the investigation and charges to only those set forth in the complaint’’)). The Petitioner would then likely refuse to answer questions related to new evidence that the Commission discovered.

If this Court allows such a prehearing discovery process, then this Court will be confronted with writ after writ asking this Court to determine the proper scope of the Commission’s investigation. The result will be that this Court will be relegated to serve as a discovery commissioner to oversee each investigation before the Commission even decides whether Formal Statement of Charges should be filed. In other words, this Court would be required to review not only the underlying

confidential complaints, but all the new evidence discovered by the Commission, to determine whether the challenged questions are “reasonably related to the precise allegations.” *See* Opposition to Motion to Dismiss at p.6. In this case, there are several hundred pages of evidence and transcripts of interviews concerning the Commission’s investigation of Petitioner.

By analogy, if lawyers could object and instruct a defendant in a civil case not to answer certain questions at a deposition because the lawyer believes the questions are outside the scope of the complaint, then civil discovery would grind to a stop. Plaintiffs and defendants would then file a motion asking the court to review every question and determine whether the question was outside the scope of the complaint. This motion process would then be repeated over and over until the courts’ calendars were completely overloaded and justice would be brought to a standstill. To prevent these types of abuse of the deposition process, Nevada adopted Federal Rule of Evidence 30(c).

Given the vitriolic language of Petitioner’s counsel throughout this case, one can easily imagine that counsel would engage in “... Rambo tactics where counsel attacks or objects to every question posed, thus interfering with, or even preventing, the elicitation of any meaningful testimony and disrupting the orderly flow of the deposition.” *See American Directory Service Agency, Inc. v. Beam*, 131 F.R.D. 15, 18–19 (D.C.D.C.1990).

Petitioner's plan to object to, and refuse to answer, certain questions that Petitioner and her counsel determine, on their own, are not "reasonably related to the precise allegations in the underlying complaint will result in an early termination of the interview, followed by writs to this Court to make discovery determinations whether the Petitioner must answer the questions. One can easily imagine that a judge may then object to and refuse to answer subsequent questions at the continued interview which cause the writ process to re-start. The Commission's investigations will be significantly delayed, and this Court will be forced to micro-manage each of the Commission's investigations. Such a result will overload this Court's calendar and fail to protect the public from judicial misconduct. Sadly, it appears that the Petitioner intends to engage in Rambo tactics to delay, for as long as possible, a potential hearing on the merits.

V. CONCLUSION

The Commission's overriding goal is to conduct thorough and fair investigations while at the same time protecting against both the potential chilling effects of disclosing the identity of complainants and witnesses and potential retaliation, intimidation and interference by judges prior to the completion of investigatory interviews. The Commission believes that maintaining the confidentiality of the underlying complaints during the investigatory interview process will promote the purpose and integrity of the confidential investigative process without prejudicing the rights of judges. In this case, the Petitioner who now

has a copy of the underlying complaint along with the entire evidentiary record, is not prejudiced in any manner. For the reasons stated above, this Court should summarily deny Petitioner's Writ.

DATED this 3rd day of June, 2020.

/s/ Thomas C. Bradley
Thomas C. Bradley, Esq.
Attorney for Respondent,
Nevada Commission on Judicial Discipline

CERTIFICATE OF COMPLIANCE

1. I hereby certify that this brief complies with the following formatting requirements of NRAP 32(a)(4), the typeface requirements of NRAP 32(a)(5) and the type style requirements of NRAP 32(a)(6) because this brief has been prepared in a proportionally spaced typeface using Microsoft Word in 14 point font and Times New Roman.

2. I further certify that this brief complies with the page- or type-volume limitations of NRAP 32(a)(7) because, excluding the parts of the brief exempted by NRAP 32(a)(7)(c), it is proportionally spaced, has a typeface of 14 points or more and contains 5,991 words.

3. Finally, I hereby certify that I have read this appellate brief, and to the best of my knowledge, information, and belief, it is not frivolous or interposed for any improper purpose. I further certify that this brief complies with all applicable Nevada Rules of Appellate Procedure, in particular NRAP 28(e)(1), which requires every assertion in the brief regarding matters in the record to be supported by a reference to the page and volume number, if any, of the transcript or appendix where the matter

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relied on is to be found. I understand that I may be subject to sanctions in the event that the accompanying brief is not in conformity with the requirements of the Nevada Rules of Appellate Procedure.

DATED this 3rd day of June, 2020.

By /s/ Thomas C. Bradley
THOMAS C. BRADLEY, ESQ.
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435 Marsh Avenue
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CERTIFICATE OF SERVICE

I, the undersigned, an employee of the Law Office of Thomas C. Bradley, hereby certify that on the date below, I caused to be served a true and correct copy of the **Respondent’s Answering Brief to Petitioner’s Petition for Writ of Mandamus and Prohibition** via the Nevada Supreme Court’s Eflex system, to the following:

Dominic P. Gentile, Esq.
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NEVADA COMMISSION ON JUDICIAL DISCIPLINE
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ncjdinfo@judicial.nv.gov

DATED this 3rd day of June, 2020.

By: /s/Mehi Aonga
Employee of Thomas C. Bradley, Esq.

EXHIBIT 1

EXHIBIT 1

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IN THE SUPREME COURT OF THE STATE OF NEVADA

MELANIE ANDRESS-TOBIASSON,

CASE NO. 80904

Petitioner,

v.

NEVADA COMMISSION
ON JUDICIAL DISCIPLINE,

Respondent.

DECLARATION OF PAUL C. DEYHLE

DECLARATION OF PAUL C. DEYHLE

I, PAUL C. DEYHLE, hereby declare under penalty of perjury, to the following:

1. I am the Executive Director and General Counsel for the Nevada Commission on Judicial discipline (Commission).
2. On May 4, 2020, the Commission determined, after a very thorough investigation, to forego the investigatory interview of the Petitioner.
3. Essentially, the Commission determined that based upon the substantial evidence already adduced in the investigation that an investigatory interview was unnecessary.
4. Nevada law does not require the Commission to conduct an investigatory interview in all circumstances particularly when a Judge is being uncooperative in scheduling her interview thereby delaying the judicial proceedings against her.
5. Also, on May 4, 2020, the Commission voted, pursuant to NRS 1.4667(3), to require that Judge Tobiasson respond to the confidential Complaint within 30 days.
6. Accordingly, on May 8, 2020, the Commission sent to Judge Tobiasson's counsel of record, by United States mail, a copy of the underlying confidential complaint, along with the entire evidentiary record, including all investigation reports, witness interview transcripts, audio-recordings of Petitioner's media interviews, and documentary evidence relied on by the Commission in making the above-mentioned determination.

7. This provides the Judge an opportunity to explain her side of the story in lieu of answering questions at an investigatory interview.

8. Commission Procedural Rule 12, along with the other Commission Procedural Rules, formed part of the Nevada Supreme Court Rules for decades prior to the Commission adopting such Rules in 2003 by Constitutional Amendment.

DATED this 3rd day of June, 2020.

/s/ Paul C. Deyhle
PAUL C. DEYHLE, ESQ.
Executive Director and General Counsel
Nevada Commission on Judicial Discipline

EXHIBIT 2

EXHIBIT 2

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Respondent.

DECLARATION OF ADAM WYGNANSKI

DECLARATION OF ADAM WYGNANSKI

I, ADAM WYGNANSKI, hereby declare under penalty of perjury, to the following:

1. I am a licensed private investigator with Spencer Investigation which performs investigations on behalf of the Nevada Commission on Judicial Discipline, including an investigation of a Complaint recently filed against Judge Tobiasson.
2. I spoke with William Terry, Esq., several times in February and March 2020, and he informed me that he represented Judge Tobiasson and would coordinate with me to schedule an interview with the Judge.
3. Mr. Terry asked me what were the subjects of the interview and I informed him that Connie Land, a former friend of the Judge, filed the underlying Complaint against the Judge and that one of the subject areas of the current investigation related to her conduct in connection with Ms. Land.
4. I also informed Mr. Terry that another one of the subject areas of the current investigation involved Judge Tobiasson's admissions which she made in various interviews with news reporters which were publicized beginning in 2018.
5. On March 4, 2020, Mr. Terry informed me that he no longer represented Judge Tobiasson.

6. I subsequently learned that Judge Tobiasson retained Dominic Gentile to represent her in this investigation.

I swear under penalty of perjury that the foregoing statements in this Declaration are true and correct.

DATED this 08 day of April, 2020.

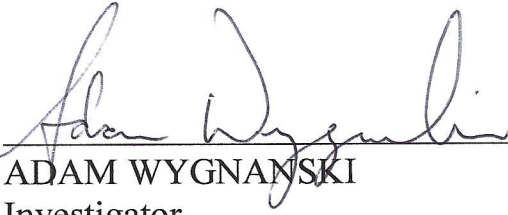

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EXHIBIT 3

EXHIBIT 3

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ON JUDICIAL DISCIPLINE,

Respondent.

DECLARATION OF THOMAS C. BRADLEY

DECLARATION OF THOMAS C. BRADLEY

I, THOMAS C. BRADLEY, hereby declare under penalty of perjury, to the following:

1. I am a licensed attorney in the State of Nevada.
2. I was previously appointed by the Nevada Commission on Judicial Discipline to be the Prosecuting Attorney in this case.
3. I have attached to my Declaration a true and correct copy of an email dated March 31, 2020, that I sent to Judge Tobiasson's current attorney, Dominic Gentile. I swear under penalty of perjury that the foregoing statements in this Declaration are true and correct.
4. In his Opposition to Respondent's Motion to Dismiss, Petitioner's counsel incorrectly alleges that I advised him that the Commission decided to forego the investigatory interview "in hopes of resolving the issue presented in the instant Petition without requirement of a ruling by this Court which might 'set a precedent' specifically requiring the Commission to provide judges with pending complaints against them prior to conducting required interviews in other cases."
5. What I recall explaining to counsel was my opinion that disclosing a copy of the confidential complaint during the investigatory stage in this case would set a bad precedent for future judicial investigations because it would effectively modify the

Commission's practice of not disclosing the complaint during the investigatory stage.

6. It is my understanding that the Commission elected to forego the investigatory interview for the reasons stated in the Motion to Dismiss and in this Brief.

7. To ensure accuracy of communications in the future, I will communicate with Petitioner's counsel only in writing.

DATED this 3th day of June, 2020.

/s/ Thomas C. Bradley
THOMAS C. BRADLEY, ESQ.
Prosecuting Officer
Nevada Commission on Judicial Discipline

EXHIBIT 4

Part 1

EXHIBIT 4

Judge claims FBI refused information on police corruption probe after pressure from LVMPD



FBI Aaron Rouse and Patrick Brodsky

(Screenshot)

LAS VEGAS — Las Vegas Township Judge Melanie Andress-Tobiasson told the *Baltimore Post-Examiner* that in 2017 FBI agent Kevin White told her he was ordered not to talk to her about Las Vegas Metropolitan Police Department police corruption.

The judge was providing information on dirty cops and prostitution.

White said Special Agent-in-Charge Patrick Brodsky ordered him not to take the information, she said.

The FBI agent said Brodsky claimed Las Vegas Metropolitan Police Department Assistant Sheriff, Todd Fasulo, contacted Brodsky and wanted the agent to stop talking to her, she said.

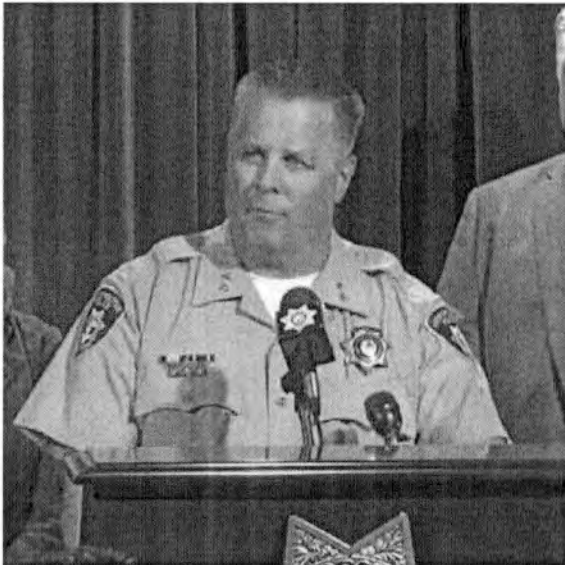
Brodsky was the second in command of the FBI Las Vegas Division at the time. His boss was Aaron Rouse, the Special Agent-In-Charge.

Fasulo retired from the LVMPD in December of 2017 and went to work for Wynn Resorts Las Vegas, as an executive in security. Brodsky retired in April 2018 and he also went to work at Wynn Resorts as an executive in security.

The Las Vegas FBI Division, the Las Vegas Metropolitan Police Department, the United States Attorneys Office and the Clark County Nevada District Attorney's Office were all contacted in 2018 by email and asked specific questions relating to what the judge told the *Baltimore Post-Examiner*. None returned our requests for comment.

On Sunday the *Baltimore Post-Examiner* made telephone contact with Todd Fasulo at the Wynn Resort.

He was advised we were on the record. He was asked, "While you were Assistant Sheriff did you tell the FBI to have an FBI agent stop talking to Judge Tobiasson about police corruption?" Fasulo responded, "There is no truth to your story. You are going down the gopher hole."



Todd Fasulo (LVMPD)

He was then asked, "So you didn't tell Patrick Brodsky to have the agent stop talking to Judge Tobiasson." Fasulo responded, "I have no further comment."

Patrick Brodsky did not return our call.

The following are excerpts of an exclusive recorded interview conducted in 2018 by the *Baltimore Post-Examiner* with Judge Andress-Tobiasson.

Some names are redacted to protect confidentiality and other persons are only identified by their first names. The *Baltimore Post-Examiner* knows the actual identity of all persons mentioned in this story.

The interview

Tobiasson: This all started about in the summer of 2015. I had a case in front of me where a judge's daughter was a victim of a brutal beating by two female defendants. It turns out that those two defendants worked for a pimp by the name of Shane Valentine, as did the judge's daughter. The pimp who was at the scene of the initial beating was actually directing the girls to inflict the beating on this judge's daughter, was never charged.

One of the two girls whose name was Sophia, died prior to the preliminary hearing. She was the daughter of a guy by the name of Vinny who went to federal prison with a guy by the name of Rick. Vinny is a reputed Bonanno Crime Family soldier, which was interesting considering his daughter was a prostitute for Shane Valentine, who initially I thought was just some thug.

Las Vegas Judge Melanie Andress-Tobiasson



We had the preliminary hearing and in the middle of the preliminary hearing, four guys come in and sit in the back row and start staring at the judge's daughter who testified, and I kicked them out of my courtroom and had them escorted out of the entire courthouse.

One of those people was Shane Valentine. At the time my daughter was a sophomore at Bishop Gorman High School here in Las Vegas and she was very good friends with a girl, also a sophomore, whose dad was a police officer with Metro. This girl from what I understand, and I didn't know at the time, was actually working as a prostitute for Shane. We got a judge's daughter and a police officer's daughter. Shane Valentine becomes aware that I have a daughter and within about two weeks of that hearing, my daughter is introduced to Shane Valentine by the other girl, the police officer's daughter, that was her friend.

About July of 2015, my daughter starts hanging out at a place, what we call Chinatown here in Las Vegas, called Top Notch. It was a hip-hop clothing store that when I looked into, realized it was not really a clothing store, it was a front for an unlicensed club and also on a regular basis, had young, local high school girls hanging out in the club dancing. There were stripper poles in the back of the club. There was a full bar. There were, at night if you watched the alley behind the club you would see the people come in. You know typical Mercedes, Range Rovers, Bentleys, Rolls Royce, whatever. They would all pull in and you would see the people getting out and you could see exactly what was going on. They would go in through the alley back door, and it was, in fact, an unlicensed club.

In July of 2015, I started contacting detectives in Vice, asking them about this particular establishment. They tell me they have no knowledge of it whatsoever. I gathered some additional information, find out that the two men running this club, both are convicted pimps and one of whom is having a case in front of me. He was a 34-year-old. I take that information to the police and say listen, these guys have young girls from you know, local high schools hanging out in here every night and from my understanding, they're entertaining in this unlicensed club. And at one point one of the vice officers apparently walked through there about two o'clock in the afternoon. I can assure you there was no activity going on and reports back to me that it definitely appears to be suspicious. That's the only thing that was ever done in the entire year and three months or so that I was giving information to vice. They never follow-up or do anything else.

My daughter at some point tells me that she is going to start working there and I tell her, you know, I make it very clear it is not a legitimate business and I make it very clear that she's risking a lot for our family by hanging out with these kind of people. I'm also in a very precarious position because doing everything I can to keep it so that we have a relationship and I don't alienate her, so what I do is I allow her to go and work there, but I watch it. I sit, I watch while she's there and in about three weeks she says she doesn't want to go back there; good, don't go back. But my understanding even after that, they would hang out there, it was like a hookah lounge slash strip club, so I continue to tell the police this, I watch the back alley, I get license plate numbers, vehicle makes and models, tell them what's going on, get the information and you know to express my concern repeatedly that there are 30 something-year-old pimps, running this unlicensed club with all these underage girls hanging out there.

It's interesting enough the first time I took the information to the police, I wasn't so concerned because I figured within a week, the place would be shut down. Well, clearly that didn't happen because I subsequently learned that not only did the police know about this place when I first started giving them information, they knew about a lot of places like this, and they were kind of untouchable.

There were certain pimps that were untouchable and then there were certain pimps they would go after. The pimps that were untouchable from my understanding were the pimps who would play the game. They would pay the price, they would, you know, offer their girls, and they would get to do whatever they wanted, despite the fact that they were targeting, you know, judge's daughters, cop's daughters, etcetera.

I learned pretty quickly that Shane Valentine was also untouchable, no matter what I said to the police about him, they never went after him. So, this was about September, this goes into September, October 2015, then my daughter quit kind of hanging out there, occasionally she would go there but mostly she wasn't going there.

December of 2015 I still continued to give information, even when my daughter was no longer going there because I figured it was not only my daughter that was in jeopardy. December 2015 my daughter comes to me and she says to me she met a guy the night before, she went to his house, apparently was sent to him by the people at Top Notch to get a fake ID, or at least by people that she had met at Top Notch. That person was Shane Valentine. She had met him, but she did not really had much interaction with him. On this particular night she goes over there to get a fake ID and he starts you know, talking the talk, and I had given her a heads up about what that would sound like, what that would look like, and he starts talking the talk, and tells her that he is going to teach her how, that she was born with a silver spoon in her mouth, and he was going to teach her how to "work" the Strip and she's going to make money for him.

She said no, that's not my thing, I'm not doing that. There were some pretty choice words exchanged between the two and then the next morning she advised me what had happened, and I was thank God, that she was home safe, and we had a lengthy conversation about, again, the risks she was taking hanging out with these kinds of people and what it would require of me, if one of them were to get her.

I then immediately contacted Vice again and this was probably the fifth or sixth time I had contacted them in this particular period of time, July to December of 2015. I contacted them immediately. Gave them his name, the address she had gone, the fact that he had drugs and guns in the house, he was ex-felon and the conversation he had had with my daughter and the fact that he was clear that he also had other girls working for him. They did nothing. They said they would look into it. I subsequently learned that not only did they know who he was, but he was also pretty much untouchable, and they never even queried the address, because they never had any intention of going after him.

For a long period of time I thought that they were just lazy, that they thought why is she letting her daughter do this, you know my theory was, they should understand that when you're dealing with this kind of stuff, you try to do everything in your power to keep your child talking to you because if you alienate them you basically send them into the lions den.

February, that scared my daughter. I would say she started then, she really started separating herself from the hookah lounges and these after-hours clubs and was breaking away from that. February 2016 Shane Valentine is caught on video, very very close to my house, doing residential burglaries. When he wasn't pimping out girls and selling dope he was burglarizing houses, and in fact, a lieutenant at Metro, at one point told me that he was, they thought he was good for at least six-hundred burglaries. During the time he was out on bail for this particular burglary, I'm about to tell you about.

He's caught on surveillance camera and they put a warrant out for him. Now, prior to that, there were six burglaries in my neighborhood, that were the same M.O., same description, I went to the burglary detective and said I believe he had done those and also told him, you know, about the situation with my daughter and about the situation with these other girls and they did nothing. I mean, he got arrested for the one burglary that he did on tape, but they did

no follow up on the other burglaries. Nobody ever attempted to get a search warrant for his house, despite the fact there were people who could say they saw guns and drugs, whatever, in the house.

At this time, when they issued the arrest warrant for him, I learned that he's got an outstanding bench warrant on a domestic violence case, in front of me, where he beat up a girl at a place called Panorama Towers, which is notorious for pimp and prostitution activity, clear from the facts of the case that she was a prostitute working for him. He beats her up, a security guard comes to her aid, he doesn't leave. Sends her pictures of him with guns, threatens to kill her, so she's never going to be safe. She gives a statement to the police basically that she's terrified, afraid to leave her house because she's afraid he's going to kill her.

May of 2016, Shane Valentine gets picked up on those warrants, bailed out on the burglary case, pleads guilty to the battery domestic violence case in front of me, and I recuse. But during that conversation, I had brought counsel into my chambers to explain to them, you know, the circumstances around this guy and my concerns for my daughter. The DA at that time says to me, "judge this is the guy who pimped out the other judge's daughter."

She just happened to remember that he was the one on the other case, that he was the pimp, even though he wasn't charged, she remembered his name. I had never made the connection, until that moment. Now, mind you I am telling the police about Shane now for six months, and then I learn this detail and because now I realize that he was targeting certain types of girls or certain families, now I know for sure.

So, I call Vice again and I said I have just learned that he is the same guy who pimped out the other judge's daughter, and they seemed to be shocked, however I now know that they knew exactly who he was and exactly who he had pimped out when I first gave his information to them. They knew he was the guy who had pimped out this judge's daughter. They knew he had never been charged, they had never submitted a case on him and they've never gone after him.

About a month later he comes back to court and I recuse, I had taken the plea on the case because the case was negotiated. I had taken the plea and I had to explain to the attorneys that though there was a conflict, and I would never put him in jail. I didn't want to recuse because I wasn't sure if he was aware of the relationship. Both parties agreed that since the case was negotiated, and it was just a misdemeanor that I would take the plea, and if there was ever a time that the time needed to be imposed, I would recuse.

By the first status check I had decided that I was going to recuse anyway because there was nothing good about me being on his case, and I had learned some other information by that time so, when he comes back for his first status check, I recuse. Later that day he starts contacting my daughter from a blocked phone number. She has not heard from him in some time, probably since the warrant went out in February. So, she calls me immediately, she says was Shane in court today I say yes he was, she said he's been contacting me. So, he called her two or three times from two or three different numbers. The first time he called, he texted this message to her. She said who is this, he said it's "Sugar," that's Sugar Shane. She blocks him. He then calls her from another number and says why the fuck you going to do that. She blocks him again. I can't remember if he did a third number or it was just the two. But she contacted me immediately.

I then called Vice and I told them.

BPE: Who'd you talk to in Vice, who are the detectives you are talking to?

Tobiasson: The majority of the time, I spoke to Detective Bluth and Beas. That would be Kelly Bluth and Al Beas. I had also talked to Cathy Hui, I talked to Greg Flores, I talked to several others, you know, in passing. Beas and Bluth were the ones I took most of the information to, but I had given information to Flores, I had given information

to, I had also talked to a detective by the name of Van Cleef. But, at this time I called Bluth and Beas again and I tell them that he was in court and as soon as he left my court he started contacting my daughter. I go, I don't understand why you guys don't do anything. You know, um, but uh, I contacted his attorney because it was now going on a year that I had been calling Vice and that they have done zero. Absolutely nothing.

Kelly Bluth, he is a man. His wife is a prosecutor. She is a DA. Her name is Jacqueline Bluth. Then there's Cathy Hui. Gregory Flores. Then there was a Van Cleef.

It's about July now of 2016 and because I know now at this point that the cops aren't going to do anything. But, I was at the point that this guy is going to continue to mess with my daughter, clearly, the police don't give a shit, they're not going to protect her. I spent a year trying to get that, to do some sort of independent investigation and shut these places down. I had given them that Shane Valentine was associated with a place called "Milk Money" that was the same kind of thing called "Top Notch," you know it was kind of like a front, they use these clothing stores in strip malls and at area malls that look like clothing stores from the front but there actually unlicensed clubs. And that's all over town. Milk Money from my understanding from talking to people in the industry is owned and run by "Mally Mall," that should explain some things to you because Shane Valentine was associated with Milk Money.

Mally Mall's people, in other words, pimps that worked under Mally Mall's permission were pretty much untouchable. Just like Ocean Fleming and Raymond Sharp said. So which explains why they never ever went after Shane Valentine. So he does get charged with the burglary, hard not to since it was on videotape but it all over the news, and so why he's out on bail on that burglary, while I continue to go to the police and while he continues to harass my daughter, the police continue to do nothing.

During that time from what I understand he's still pimping out girls, he's still selling dope, he's still burglarizing houses. It was well known among the kids, the teenagers who hung out in this group of people who hung out in the hookah lounges that Shane and a kid named Neo were doing burglaries. I'll come up with Neo's name in a minute, sometimes it escapes me.

So, this is summer, my daughter was actually doing very well, she was working at you know, a regular place doing really well, had a different group of friends, was not involved with the stuff, but I continued to push it because at any time, there were several times I had conversations with Bluth where he said what's going on with your daughter and I'd say my daughters fine and he goes, what do you want us to do and I said just because my daughter is fine, doesn't mean other people's daughters are fine. I said this isn't just about my kid, this is about everyone's kids.

So, September 26 of 2016, it was a Sunday, I get a search warrant call from homicide. About halfway thru the search warrant, we do telephonic search warrants here, halfway thru the search warrant they give the address and the name of the location of the homicide. That location was Top Notch clothing store. The place I had started to talk to Vice about in July of 2015. It's now December 2016. So, Top Notch was still going strong, after hours club with underage girls and low and behold there's a murder there. So, I get off the phone I call the homicide sergeant back and I explained to him that, you know, I was concerned about my name being on the search warrant because these people knew who I was and they tried to get their hooks into my daughter, they most likely got their hooks into other girls.

BPE: Before you go any further, where was Top Notch located at?

Tobiasson: At this point in time, Top Notch had moved, when I was first aware of it, it was on Spring Mountain, between Valley View and Arville, what we call Chinatown. By the time it had the murder it had moved to a location at the corner of Flamingo and Decatur. So, the murder happened there. They have surveillance cameras and interestingly enough, the homicide guys called me and asked if I would show the pictures of these four people to my

daughter. And I said, "are you out of your mind." I said there's no way in God's green earth that I'm going to have my daughter identify the shooter and the getaway driver in this video for you guys, you know, I mean they haven't protected her to this point, and I'm like no, that's not going to happen.

Which turned out to be a really smart move on my part. Ultimately they identified the shooter, they identified the getaway driver and the attorneys for the guy who was the driver of the car that the shooter jumped into, had set up a meeting with his attorney. She had set up a meeting with them and she told them my client is willing to talk to them off the record. Well homicide comes in and interviews the guy, he identifies the shooter for them, but it was agreed prior to the conversation that they would not use his name. But guess what they did. They recorded it, transcribed it and submitted it to the DA's office in discovery, basically sealing this guys death warrant. So they her burned her completely.

BPE: What was the name of that person?

Tobiasson: Antoine. That's the one who talked to them and gave them the name of the shooter. He went to prison, he got convicted of the murder because Antoine didn't have a choice but to testify against him because they basically gave the shooter the discovery with his name in it and they said they would never do that. So Antione, the DA's office agreed to probation for him and there was a visiting judge, because the other judge was on vacation and gave him prison time and nobody ever did anything, let him go to prison. Surprised he didn't get murdered there, buy he's out of prison.

That was October 26. I contacted Det. Bluth and I'm pissed. I said to him, "I assume you heard about the murder at Top Notch, I'm not sure why you have blown me off all this time, but maybe now I have your attention. I said maybe now since there's been a murder at Top Notch, and I asked you guys to investigate that a year and a half ago, and you knew what was going on there, I said maybe now you'll investigate Shane Valentine.

I said he's out on bail on a burglary charge, he's got multiple felony convictions from when he was a juvenile, certified as an adult, he's pimped out one judge's daughter, he's pimped out multiple police officers daughters, he tried to pimp out my daughter, he's targeting certain families, and you guys just don't care. And I said I have information on a girl who at this moment is working as a prostitute for him while he's out on bail on a burglary. Maybe you should do some investigation and do something about it. So he tells me he will be at my office on Thursday afternoon. Thursday comes and goes no call, no show.

BPE: And what detective was that?

Tobiasson: That was Detective Kelly Bluth. So, that following Sunday, coincidentally I was at the jail doing something else and I run into Al Beas, and I was not nice, and I walked up to him and I said, "One question, why do you guys keep blowing me off." I go, "I've been bringing you guys information about these guys pimping out underage girls and what's your big talking point on the news, and I said for over a year now, and you guys have been just blowing me off for a year now. You've done nothing. You haven't investigated anything I told you, you made any effort to independently investigate or verify any of the information I've given you, and now you got a dead person at a place I told you about a year ago that was an unlicensed club." I go, "I don't understand," and he goes, "I don't know what you're talking about," I said, "I talked to Bluth, he was supposed to come to my office and once again, no call, no show." And he said he's out of town and I said, "well he has a phone doesn't he?" And he said, "so we'll come to your office next week."

The following week which would have been the first week of October 2016, they come to my office. And it's Al Beas, Kelly Bluth, and Greg Flores. And I give them information on a girl. The same girl I told you about earlier whose dad

was a police officer, who is friends with my daughter. I give them her name, her dad's name, all of her information, and again I give them Shane's information, where he lived, what his story is.

BPE: What was the name of the cop whose daughter was being pimped out?

Tobiasson: His name is Ty. Now, I have said to them when I gave them this information, every time I gave them information, I said my daughter could never know that I'm giving you information. If she finds out she'll never talk to me again, and I'll never get the information again and, you know, and she might just be so pissed off, she will never talk to me again anyway.

BPE: Why would a pimp be pimping out daughters of cops and a judge, it seems like the stupidest thing to do in the world, why was he doing that?

Tobiasson: No, actually if you know you're protected, and it's not the stupidest thing in the world, it's the smartest thing in the world because I'm the only one who has ever been willing to come forward. Because everybody else (a), in denial of the fact that it was happening or (b), cares more about their job, their political career or their public reputation, than their kids. And I have told my daughter in December of 2015, "I love my job, I would like to do my job for a long time, but I will lose my job in a heartbeat, to save you." And I told her, I go, "If one of these pimps gets you, I will lose my job, I will lose my freedom, I will lose my life, if that's what it takes to get you back, but I will get you back if a pimp gets you."

BPE: Ty, what does he do for Metro, where does he work?

Tobiasson: I don't know where he works now, I have no idea, he was patrol officer at the time. You know, here's the thing. You got Mally Mall paying off these cops to protect his people and his girls and go after the other pimps. Shane worked under Mally Mall, so he's protected. It explains, and, if you've got these kinds of kids, their parents aren't going to come forward because their parents are embarrassed.

My embarrassment comes from the fact that we have a police department and a DA's Office who will allow this to happen. They know it's happening, they pretend they don't, and they allow our kids, they allow their own colleagues kids, to get trafficked. And then they go on the news and talk about, you know, their passion for going after these human traffickers when they're sitting back watching it.

I actually subsequently learned that there were cops who hung out at Top Notch, at the club.

BPE: With the underage girls?

Tobiasson: Uh, huh. If someone would talk to Marlon I bet he would tell them. Marlon actually protected my daughter, listen, if my daughter was eighteen, I guarantee he wouldn't have, but he use to tell my daughter all the time, like I had respect for your mom, she always treated us with respect when we were in the court with her.

BPE: Who is this guy, which guy is this,?

Tobiasson: He was a pimp. He was the one who owned Top Notch, but he had, actually, he wouldn't let my daughter drink, he wouldn't let her party, he wouldn't let her sit back there and smoke the hookahs. He let her hang out there, but according to her, he kind of shielded her from the other stuff. Now, you know, I don't think the guy deserves any freaking awards, but I do appreciate the fact that he didn't beat my daughter up and put her out on the Strip. He protected my daughter more than the cops did I can tell you that. That's pretty sad.

BPE: What was the judge's name whose daughter was also being pimped out, what was her name?

Tobiasson: [Redacted]. Her daughter recently was working as a prostitute again out of Spearmint Rhino which is also Mally Malls territory. I'm just getting to the good part.

I give these guys this information at the beginning of October of 2015. OK. We already had the murder at Top Notch. Then October 8 of 2016, unbeknownst to me, there is a drive-by shooting at a guy named Neo's house.

Tobiasson: So Neo, was a kid that was really a good kid in high school, he's now hanging out with Shane, they're buddies. Neo is an up and coming pimp at this time. But Neo was taking Shane's girls and Shane was getting pissed. So on October 8th Shane and Neo have a little tiff in text messages where Shane threatens Neo and says he's coming to shoot up Neo's house. Neo says, bring it, gives him the address and the gate code and ten minutes later Shane rolls up to Neo's mom's house, with a rental car in his name and fires a round into the house and throws a big giant boulder threw Neo's moms window.

So, the police go out, it's ten o'clock in the morning. Neo doesn't want to cooperate of course, but you have three other witnesses, independent witnesses who lived on the street who gives the vehicle description, license plate number, description of the shooter, which matched Shane. You've got the car, registered in his name, you've got a piece of the car that fell off in the driveway and you got Neo's mom gives a description.

Metro closes that investigation two days later, insufficient evidence for prosecution. Okay.

Mid-October of 2016, retired lieutenant Karen, sends me a message on Facebook, unrelated to this investigation. I had made a ruling in a case and she had called in about my decision in that case. As a result of that I reached out to her and I said I've got a question for you. I, of course, don't realize that she is a subject of the investigation either.

BPE: Just so I know, just to get this on the record right now. The subject, when you say the investigation we're talking about...

Tobiasson: The FBI investigation.

BPE: Right. The FBI corruption investigation reference to the search warrant they executed in 2014 on Mally Mall's house?

Tobiasson: Correct.

BPE: OK.

Tobiasson: I didn't know at that time that she was subject of the investigation or at least part of the investigation. So, I reach out to her and said hey I have a question for you, "What's going on in Vice?" I said because I have been taking information to them for over a year now, almost a year and a half, and I said they have blown me off, over and over and over and over, again. I said I don't understand. I said maybe they just don't give a shit because it's me. I said but it's really frustrating and I don't understand. And she says, I'll call over there. She then tells me that she had called over there and it was going to be taken care of.

So, October 25, 2016, at 4:30 in the afternoon I get a phone call from Detective Van Cleef, and he's frantic, and he says we have a problem. I said what's the problem? He said I was asked to sit in on an interview today. He goes, I sit down, and the girl comes into the interview and the detective who's questioning her is a detective by the name of Justine Gadus. She should be in prison for what she did to me, my daughter.

BPE: Who Justine Gadus?

Tobiasson: Yeah.

BPE: What did she do?

Tobiasson: Well, I'll tell you. She calls Ty and says she would like to interview his daughter, that they had received information that she is a prostitute or potentially has information in regard to a pimp and human trafficking of juveniles. So they call her in for an interview. Rather than do like an independent investigation because typically teenage girls won't admit in front of their dad that I'm a prostitute. So they bring her in for an interview with her police officer father. The first question out of Justine Gadus' mouth, "Do you know Sara." "Yes I do, she's one of my best friends." The second statement out of Justine Gadus' mouth. "We got your name from her mom, she says you're working as a prostitute for a pimp by the name of Shane."

BPE: Jesus!

Tobiasson: Yeah. Yep. I get the call from Van Cleef who is beside himself, he goes I don't know what to do. I said, "how about you get back in there and fix it." I go, she just put a target on my daughter. You don't think this guy is going to kill me? He's not going to kill me, he's going to kill my kid." I said, "what is wrong with you people?" I said there is no way that this was an accident. I said no vice detective, I don't care if they've been there for one day, would do that by accident. I go this was intentional. So, he goes back into the interview. He calls me when the interview is over and he's like, "we talked to her and we told her not to talk to your daughter about it." I said, "What, are you an idiot?" I said, "she's on the phone with my daughter right now, I go in fact I bet in thirty-seconds I have a call from my daughter." Sure as shit I get a text message from my daughter. "Are you serious, you called the police on us?"

So, I bring my daughter and Allie to my house, and I tell them you need to get to my house right now, you're not safe.

BPE: You said you brought your daughter and who to your house?

Tobiasson: Allie, the daughter of the police officer, they just outed me to.

BPE: What's her name?

Tobiasson: Allie.

Tobiasson: So I bring them to my house. I have to give them the song and dance because I don't really want to tell them yet, you know, I don't want to admit to them that at this point I've been bringing information to the cops because you know, they're still young and there still, I don't want to lose my connection with them. Especially right now. So I give them a song and dance about why the police would do this. I make it very clear to them, they are not safe. When Van Cleef calls me back he said Justine wants to meet with me and my daughter. I told him basically, I don't want to tell you what I said, but it wasn't very nice. And I said you guys have a reason for doing what you did, and I don't know what it is, but I said if something happens to my daughter, we're going to have a real big problem.

That night, unbeknownst to me at this time, Allie leaves my house, she Tweets, she puts out a Tweet about the fact that she was called in and questioned by Vice. Now, unfortunately at this point, Allie is no longer associated with Shane, she was associated with Neo. Like I said, they had had a beef because Shane was upset that Neo was taking Shane's girls.

That night it would have been October 26, 12:30 a.m., Shane, a guy by the name of, he goes by the name of Domo, he's a pimp, and a girl by the name of Frankie. Shane, Domo, and Frankie, whose step-dad is a police officer by the name of Dano, goes to Neo's house and execute Neo and his girlfriend, Sydney Land, whose dad is a fire captain.

BPE: Okay. Wait a minute. Who's Dano?

Tobiasson: Dano is the step-father of Frankie, one of the suspects in the double homicide that happened eight hours after I was outed as the source of information to one of Shane prostitutes who had left him and was now working for Neo. Eight hours later, her new pimp is killed by her old pimp because she puts out on Twitter that she had been called in and interviewed by Vice. They know and everyone else knows that this murder happened as a result of what they did that day.

The first detective, so, this happened Tuesday...

BPE: Who got killed in the shooting, who did they kill?

Tobiasson: Neo Kaufman, the kid who had been doing the burglaries with Shane.

BPE: He got killed?

Tobiasson: He got shot in the head, he got executed, shot in the back of the head and his girlfriend, Sydney Land. Don't forget, Shane shot up Neo's house on October 8 and Metro closed the case, insufficient evidence for a prosecution, even though they had three independent eyewitnesses and vehicle descriptions and proof that Shane was there. Sydney Land, she was a 20-year-old- girl whose dad is a fire captain. She got shot in the face after she got beat up and drug around and had rug burns all over her.

BPE: Has anybody been indicted for this double murder?

Tobiasson: No, it's like I said they're covering it up. I'll finish the story. Here's what happened. They find the bodies Thursday morning, two days after they've been killed. They know immediately that Shane is one of the suspects. They're able to ping his phone at the apartment at the time of the shooting. But here's what they don't do. They don't call me and tell me. So, Friday night, they find the bodies Thursday morning. For some reason all the kids on the street know it, Shane did it, everything, and the cops don't know shit.

So I text Det. Van Cleef at midnight on Friday, so it would have been the 28th of October [2016], I said you have any intel on the suspect in the double homicide, knowing that they knew, and he said yeah I heard about that yesterday morning. So I called him, and I said, "you knew yesterday morning that Shane was a suspect in this double homicide that happened eight hours after you outed me as a source of information putting my daughter's life in danger and you didn't think that maybe I should get a heads up. That maybe someone should have called me and told me that he was a suspect in this double homicide." And I told him Tuesday when I go, Shane is a murder waiting to happen, it better not be my daughter. So within eight hours, I was proven right because Shane was involved in the double homicide of these two kids. So he says to me, "oh you guys aren't in danger, you know he's on the run, he's not worried about you guys." And I said let me explain something to you, he's already killed two people, you think he gives a shit about two more. I said apparently nobody cares about the crimes he commits so he probably doesn't have to worry about it.

BPE: And why do you think that nobody cares about the crimes he commits?

Tobiasson: Because they never investigate them, and he never gets arrested for them of course when they are on videotape. I mean they had opportunities over and over and over. I mean he didn't even get charged in the other case with the other judge's daughter when he was there, and he was directing her beating.

BPE: And why do you think he is protected?

Tobiasson: Because he's working for Mally Mall, he's protected, they've been paid to protect him.

BPE: The cops?

Tobiasson: Yes.

BPE: By Mally Mall?

Tobiasson: You're never going to get them to say that. He acts for Mally Mall. He is associated with Mally Mall. And what I kept saying was, well maybe once the federal investigation became public, my theory was, oh now I understand why they won't arrest him, Shane, because I said they're afraid they'll get Ocean Fleming. He'll probably dime them out for all the shit they've done. And he probably got intel on them. I was right. Just right for the wrong reasons.

BPE: Did you ever contact anybody from the FBI and tell them what's going on?

Tobiasson: We're getting there. Yes. The answer to your question is yes. And when Metro found out that I was talking to the FBI, oh what's his name, he just retired, anyway, yes, I did, and I spoke to somebody for a lengthy period of time and we spoke on burner phones, because we were so afraid that the other FBI agents and Metro would find out that we're talking because he knew that there were people that he worked with at his agency that if they found out that we were talking he'd be shut down. If Metro finds out...

BPE: Why was that?

Tobiasson: that I'm talking to the FBI and an assistant sheriff contacts the head of the FBI Las Vegas field office, who they called in the agent that I was talking to and tells him he's not to talk to me anymore, that I'm a problem and that Metro's concerned that I'm going to go public with my story. Yes, that's what happened.

BPE: Who was the assistant sheriff?

Tobiasson: I can't remember his name right now. He just retired. He retired because he had a DUI that Joe Lombardo covered up.

BPE: You're not talking about Todd Fasulo? [former LVMPD assistant sheriff].

Tobiasson: That's who I'm talking about, yes I am.

BPE: Who now works for Steve Wynn.

Tobiasson: Who now works for the Wynn and guess what. The head of the local field office, the FBI, [Assistant Special Agent in charge, Patrick Brodsky] is about to go work there too because Todd Fasulo got him a job there. That's the same head of the local FBI office who told his agent not to speak to me anymore and then I believe that they probably found out that we were still talking, and he got kicked out of the public integrity unit back to the opiate squad.

BPE: What was the FBI agents name that you were talking to, what was his name?

Tobiasson: I'll tell you his name but I'm trying to still protect him even though he's not, he won't talk to me now, so now I don't have anybody to talk to. I can't go to Metro, I can't go to the FBI, and I got Joe Lombardo who's trying to suggest that I'm involved in drug trafficking and that they're going to file charges against me for interfering with an investigation, for telling people not to talk to vice detectives because they're dirty.

They put an infocom out on my car saying, they don't put my name, they know it's my car, they say to be on the lookout for this car basically it's involved in a drug trafficking investigation. And how I found this out as I was doing a search warrant for a narcotics detective and he asked me if I had a certain car still and I said no, but I just bought this particular car and he goes that's weird, we just got this info about this you know, the same kind of car about being involved in drug trafficking. And I go, well I have the only one in town, well he says clearly it's not you.

BPE: What kind of car is that?

Tobiasson: It's a Dodge Demon. And so then I talk to an attorney who had talked to Joe Lombardo and advised me that Lombardo was suggesting that I was involved in drug trafficking. And then I realized that in fact, that was me that they were talking about. I can assure you...

BPE: And you're not involved in drug trafficking right?

Tobiasson: I can assure you that I am not involved in drug trafficking, never have been and never need to be, never want to be. I've always joked and said if I'm ever going to go to prison I promise you it's going to be worth it. And that would not be worth it.

BPE: Why do you think Lombardo is telling people that you are involved in drug trafficking?

Tobiasson: He told this particular attorney that they know that I meet with this guy who has a prior drug conviction. They mentioned a place that I meet him, which is a bar in Henderson. I was so pissed off. I go, first of all, I've known that guy since I was seventeen freaking years old. I said his priors are for marijuana and he's been my friend forever he builds race cars and he was actually getting me some estimates for one of my other cars to get like a supercharger and stuff. I have a car issue.

BPE: What was the FBI agents name just so I get that on the record, what was his name?

Tobiasson: Kevin White.

BPE: Is he still with the Las Vegas division?

Tobiasson: Yeah, but he got transferred out of public integrity and moved to the opiate task force, even though he's the one who spearheaded this entire investigation that started in 2014, because apparently, Metro has enough pull to control the FBI behavior here in Las Vegas.

BPE: Do you have any information that that FBI investigation, the alleged FBI investigation, do you really think there is an FBI investigation going on since 2014?

Tobiasson: Well according to Kevin White there is and according to him there's going to be. Listen, everybody in the world is saying that there's going to be indictments. But, they started saying they were coming out in February [of 2018]. Then March. Then April. Now it's May and I don't see any freaking indictments. And everybody keeps saying, don't worry, once the indictments come out, you're going to be okay. You'll be safe. And I said I should be safe now, but I go I'm not because I can't call the police and I can't call the FBI. I go where do I go if something goes wrong. Who do I call?

Tobiasson: Listen, I do not have information on who might be indicted. I have theories, that it's going to be way bigger than anybody thinks it's going to be and that its' going to be many more people than anybody realizes it's going to be.

So, these murders happened. [Police official] tells me the first three or four weeks after the murders while Shane is on the run what information they have and what proof they have that Shane's involved. They have his phone ping at the apartment and then what happens is that after the murders the phone is turned off almost immediately and then the next time his phone is turned on, it's in Baker, California.

He turns his phone off as soon as the murders are committed and then turns it back on in Baker. They wind up catching him sometime later in Burbank, California sleeping in, low and behold the rental car he was in when he shot up Neo's house. Now after the homicide, they get Neo's phone and there's like forty thousand text messages on it. Apparently, Neo never deleted his text. There's text messages between Neo and Shane, there's text messages between Allie and Neo confirming that she is having involvement with Neo, prostitution-related involvement with Neo and there are many many other text messages on his phone. I'm advised of this by [police official] that they have this information.

They, therefore, reopen the drive-by shooting at Neo's mom's house on October 8 and subsequently filed charges against Shane for that. Even though they didn't have enough evidence before. I'm told they have Domo's DNA, that Frankie's phone pings at the apartment, that they caught Frankie in all kinds of lies and one of the most significant things is that after the two are dead nobody ever text's them again.

Shane, Frankie and Domo never send them another text. You know, like they know they're dead. You know how these kids are, they text each other five hundred thousand times a day. They never sent them another text. So there's a lot more information about how they know that Shane's involved, but they know. So Shane gets arrested in California, gets extradited back to Vegas and he gets charged with the drive-by shooting and I find out from [police official] that there are four burglaries, now mind you he's been out on a burglary charge since May and the murders are committed in October.

There were four other burglary cases that were sitting in the DA's Office that had DNA and fingerprints that tied Shane to those burglaries, that they never filed. He's out on bail on a burglary, they close the drive-by shooting case that they knew he did, and they have four other cases that they have DNA and fingerprints and they don't file on them and revoke his bail. Then there's a [police official] who tells me that they believe he's good for six hundred burglaries during that time frame that he was out on bail. So there is a significance to them having the text messages between Allie, the girl they outed me to, the cop's daughter, and Neo.

Because at this point in time they now know that Allie is, in fact, a prostitute because what they tried to do after the interview is that they tried to tell me that she was not, that she didn't know who Shane was and it was, in fact, my daughter who had introduced her to Shane Valentine. And I wasn't in a position to argue with them or even have discussions with them because they had outed me.

So once those murders happened, they were in fact, she is. But here's what happened. I make a phone call to somebody I know is tight with the Sheriff and I tell him I think I have something that the sheriff needs to know about. So I told him the story I just told you. And he tells the sheriff and the sheriff calls in homicide and the burglary detective who never did a search warrant, never really followed up on the information I gave them, calls in the officers who closed the drive-by shooting case and he basically makes it look to me like he's doing something, but I learned later...

BPE: Who was the guy that you told who told the sheriff?

Tobiasson: Kirk Hooten. Right now he works for the PPA, he's not a sergeant or anything. He's a friend of Joe Lombardo. So I go to him, he tells Joe. Joe calls in the homicide detective, Joe calls in the burglary detective, he calls in the vice detective, asks them why they, you know, what they did in response to my information and they

basically they tell him the only thing they ever did was to walk into Top Notch one time, acknowledged to him that it clearly was not a legitimate business and then acknowledged to him that they did nothing else even though they knew it was not a legitimate business.

BPE: What time frame are we talking about here when this guy went to Lombardo? What month and year are we talking about?

Tobiasson: It was within a week that I found out about that Shane being a suspect.

BPE: That was 2016, what month?

Tobiasson: November. So then he has the conversation with them. He then sets up a meeting with me. I go in there, and I will tell you...

BPE: A meeting with you and Joe Lombardo?

Tobiasson: Yes. So, but prior to that, backtrack a little bit. So I told you about the cop whose daughter was a suspect in the double homicide. I knew him before he was a cop. When he became a cop I was concerned. ...that he was actually feeding girls to the pimps and that he was every bit as he was as dirty as they come. And I will tell you this, he retired four days after the double homicide.

BPE: And what was his name again?

Tobiasson: Dano. His other step-daughter is also a prostitute and is very significant to this story. That's where it gets a little complicated.

BPE: Do you think the FBI agent was told not to talk to you because of the ongoing FBI corruption probe and thought maybe you may jeopardize that investigation somehow?

Tobiasson: No. No, they told him specifically, I am a problem for Metro. Metro's afraid I'm going to go public and it would make Metro look bad. No, it had nothing to do with them being concerned that it would compromise the investigation. I was giving them information that bolstered their investigation. The FBI is covering for Metro, just like Metro's covering for Metro.

BPE: I'm trying to find the connection here though. Why would the FBI be covering for Metro during a federal corruption probe? That's the part that doesn't make any sense?

Tobiasson: This is different. This is a completely different investigation. The thing I'm involved in although it's tied to Mally Mall, resulted in three murders. That are not being investigated, that are not part of that investigation. They ignored me for a year and a half, and it resulted in three murders.

And I was giving that information to the FBI in hopes that at some point they might investigate that as well. Whether it had a connection to the ongoing investigation, or it resulted in an additional investigation. I was providing them with information on my situation in hopes that they would investigate it and they shut their agent down and told him to stand down and not to speak to me anymore. They were not investigating this. They were not going to take the information on it, and he was not to speak to me anymore.

BPE: Do you think by talking to that FBI agent that aside from the things you just told me about the murders do you think there was an active investigation with the FBI going on, on Mally Mall?

Tobiasson: Yes. He told me there was.

BPE: But they didn't want to hear anything?

Tobiasson: I approached him with the most bizarre, I had dinner with a lady who runs a group called Sesame. It's a group that keeps track of teachers who are accused or convicted of having inappropriate relationships with students and just get sent to a different jurisdiction and keep their teaching licenses, kind of like priests. We had a different issue we were dealing with. I had dinner with her, and I tell her this story and she said I have a friend who's an FBI agent who works on human trafficking and political or public integrity. She goes he would probably really want to talk to you. I said I will talk to him, I said I was thinking about going to the FBI for a while now. I said but, I don't know how to go about doing that. And so she sent him a text and said I'm having dinner with somebody who would like to talk to you, they have a story for you, and he said to her, give her my number. And that's how we made contact.

BPE: I'm just giving you my opinion here, but it sounds like the reason why that FBI agent was told to stop talking to you, because of the ongoing corruption investigation the FBI's got against Metro and they didn't want anything at that point to disrupt it.

Tobiasson: No.

BPE: Metro does not control the FBI?

Tobiasson: I'm telling you they control it at the local office. In fact, that FBI agent said that to me. He said, "If I was in any other field office in the country and a local police department called my boss and were upset about me talking to somebody they would tell them to go get fucked." He said this was the only field office in the entire country where the local police department can call and complain and get the agent to shut up. He specifically said that to me. So, with all due respect, you're wrong on this one. The FBI agent personally said that. He then gave me a burner phone that he bought, because he didn't want one in my name. We then spoke on burner phones, and now Joe Lombardo, one of the reasons for suggesting that I'm involved in drug trafficking, is because he knows I have burner phones and I said to the attorney, oh really, let me tell you something, I never had a burner phone in my life until I talked to the FBI. I said the only reason I ever had a burner phone is so that Metro and the FBI wouldn't know I was talking to an FBI agent. That's why I have a burner phone.

BPE: I saw the interview that you did with Channel 8 I-Team. Is everything that's on that interview is what you told them or was that an edited version of your interview?

Tobiasson: Oh, no, that interview, that tape was never intended to go public. I made that tape to, in the event that I was dead and couldn't tell my story. My attorney wanted me to videotape my story, it's about four hours, maybe five, in the event that someday I needed it for my protection or in the event that I wasn't around to tell the story. That's how concerned they are for me. Then what happens after the, so Lombardo, and I didn't find out about it until after the story aired, talking to my attorney suggesting that I'm involved in criminal activity and suggesting that they're going to file charges against me, and my attorney tells me that I think we need to do this story. He doesn't tell me why he says I think we need to air the story. I said, I agree. I said I don't know what we're waiting for, let's do it, I wanted to do it six months ago. So, they aired the story.

BPE: And that was on April 13, 2018, when they aired it.

Tobiasson: Yes. In response to the airing of that story, five days later, Joe Lombardo, Steve Wolfson the district attorney, Chris Lalli and Robert Daskas, the two assistant district attorneys, and a guy by the name of Chris Larochelle, who is Joe Lombardo's personal lieutenant, have a secret meeting with my chief judge, who's the chief judge on Las Vegas Justice Court, trying to get me kicked out of my criminal calendar. But they wanted it to be a

secret, they don't want me to find out about it. They want Joe Bonaventure, the chief judge to come to me and say, he saw the news story and he thinks it creates an appearance of bias against the police department and the DA's Office and he's moving me to all civil cases. Well, he doesn't do that. He advises me about the meeting, and he tells me that as long, I tell him I don't have a bias against the police department, I go I'm sorry for the other 95% of the officers who have to work with the 5% that are corrupt, and the sheriff.

I said in no way do I think the entire police department are corrupt, I think they're terrified. So, I find out about the meeting and an article gets written about it. Joe Lombardo has a meeting with George Knapp [KLAS-TV reporter] and his veins are popping out of his neck because he's so mad and he's accusing me of being inappropriate and he's yelling at George Knapp for doing the story because it makes them look bad and that's where we're at. Joe Lombardo is so angry, that God only knows what he is going to try to do. But their meeting was so inappropriate that three attorneys told me I should file a federal lawsuit. But that is not what I want to do. I have no interest in that. Here's what I have interest in. Somethings happening showing what these have been doing or not doing, that allowed these girls to get trafficked. That's what I care about.

BPE: At some point, Shane Valentine, he's in prison right now, they did lock him up.

Tobiasson: They just negotiated all of his five burglaries and the drive-by shooting to just three years. He'll be out before my daughter turns 21. You need to understand my daughter is terrified of when he gets out of prison. Not that he couldn't kill her from prison.

BPE: I saw the response to the I-Team story in the paper, I guess they did a print version. In there they said they talked to Joe Lombardo, they said his response was basically we did our job, Vice arrested Shane Valentine and he's now in prison, which is true, he is in prison.

Tobiasson: Vice has never arrested Shane Valentine. Never. Vice has never. Homicide reopened the drive-by shooting and he pleads to burglary because they found out after he was a suspect in the double homicide that he had four burglaries sitting at the DA's Office that they never filed, even though he was out on bail for another burglary. They had four with DNA and fingerprints, that they never filed.

Nobody has been arrested in the murders, I told you that. He was a suspect in the murders, they have all the evidence they need to make arrests in the murders. [Redacted] told me all the evidence they had that it was Shane, Domo [another pimp] and Frankie [step-daughter of an LVMPD officer]. A month after the double homicide they take him off the case. That never happens. If you start a murder case, you finish a murder case, unless you retire. They take him off the case.

They make another detective the lead detective. His name is Mitch. Guess who he lives by? He lives on the same street as Dano [LVMPD officer, step-father of Frankie]. Do you know why? Because he and Dano have been friends for thirty years and bought houses together on the same street. You know how I know this? Because Dano's other step-daughter told me this. So now the detective on the case says that Shane Valentine is the only suspect until he says otherwise, does nothing. I have all the text messages between him and Sydney Land's mom where he says, "we have other cases to work on we'll get back to your daughters eventually."

Now, one week, one week after they found out I was talking to the FBI, they did a press conference where they said Shane Valentine is no longer a person of interest in this murder. That was one year and three weeks after the murder happened. And up until the minute that they found out that I was talking to the FBI, Shane was not a suspect. The minute they found out I was talking to the FBI they do a press conference saying he's not a suspect. The problem is they don't know that I know what evidence they have. Chances are they destroyed it by now. And

the Vice detective who investigated the vice angle to this, has known Dano since before they moved to Las Vegas and became police officers. He is Dano's other step-daughters god-father.

BPE: I'm still having a very hard time to believe?

Tobiasson: Here's what I can tell you. They have taken it away from the field office here because of what happened. It was being investigated here, they took it away from them because of what happened.

BPE: When was that, do you know?

Tobiasson: Only in the last few months. And now I have Lombardo threatening to file charges on me because I have the nerve to speak out. He told my attorney that he was going to charge me with interfering with an investigation. There were certain conversations I apparently had with people where I said you shouldn't talk to a certain detective because they were dirty. My attorney said first of all, you're not doing an investigation, we've even been told the case is cold, second of all, it's true. Why would you suggest to talk to somebody, to a detective you know is dirty? He's just trying to scare me.

BPE: When they told you that the case was taken out of the local office, did they tell you where it was going?

Tobiasson: Washington.

BPE: That's where I figure it should have been from the start.

Tobiasson: Well, it wasn't there from the start, I can assure you. I'm just telling you it wasn't. It didn't make sense to me. I didn't understand how somebody at Metro could call the FBI and get me basically black-balled so I can't talk to an FBI agent who was very interested in my story and knew that I was telling the truth. I don't understand that either.

Tobiasson: Let me tell you something, the FBI agent I was talking to, he will not talk to me, he is so afraid to talk to me because he knows he'll get fired. He's as mind blown as I am. He's afraid to talk on his phone, his work phone because he doesn't trust the other agents he works with. I'm not crazy okay.

BPE: No, I don't think you're crazy.

Tobiasson: He's told me. He and I talked at length. We would meet at churches, libraries, so we could talk. He was terrified to be seen with me in public because he knew they wouldn't want me talking to him. Once he knew my story, he knew what would happen if they found out that we were talking, and he was right. He told me what would happen if they found out we were talking and exactly what he said would happen, happened. So, if it makes sense to you or not, what it should say to you, this is bigger than, this is stuff that they really, really, really don't want to become public. That's what it should say to you and that this shit is huge.

BPE: There's no doubt what you told me if the FBI knew half of what you're saying, this is a major federal corruption investigation.

Tobiasson: One of the last times I spoke to this agent before he quit calling me and I will tell you this, he's gotten messages to me to let me know that I'm okay, that he knows what's going on, he knows I'm scared, and he's managed to get me messages, but he's also got me the message that if they ask him if he's talked to me, he doesn't want to have to lie. That's why he's refusing to talk to me because he doesn't want, you know, but what does that tell you. That he's afraid of them finding out. Do you know what I mean?

BPE: Let me tell you this right now? Metro, I don't care what you believe I'm telling you, Metro is not going to tell the FBI to knock off a federal corruption probe. That is just a bunch of nonsense.

Tobiasson: No, no, no, no. No, no. You miss understood me. I did not say they said to stop the probe. I'm telling you they did not want me to be giving this agent the additional information that I have. This thing with me is a completely separate but huge issue for Metro because it involves judges and police officers and human trafficking and the allowing of it to happen to our children. The ignoring of it when somebody brought it to their attention repeatedly and then the murders.

Tobiasson: What I'm saying is [Former Assistant Sheriff of the LVMPD Todd] Fasulo called the head of the Las Vegas field office and advised them that this guy was talking to me and he was then told to stop talking to me by the head of the local FBI field office [Former Assistant Special Agent-in-charge, Patrick Brodsky].

Tobiasson: Now they're trying to cover up the homicide where Shane Valentine is a suspect and I believe that's the reason that Metro does not want this to come out is because if the entire story comes out, it's going to be clear that their behavior on that case, in this case, created an instance to continue to target our kids, not just judges, and cops, but a lot of kids. It's not just our kids, you know, our kids are involved, they allowed it to happen, they knew it was happening. In fact, in Trish Spencer's memo, she said the first time they ever knew of Shane Valentine was in September of 2016. They blatantly lied, saying they never knew Shane Valentine's name prior to that.

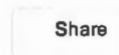
Comment

To say what you just read is troubling would be an understatement.

The integrity of the FBI Las Vegas Division compromised by the Las Vegas Metropolitan Police Department?

On January 19 just a few days ago, the podcast, 'The Murder in my Family' aired it's episode 25, an interview with Connie Land, the mother of Sydney Land, one of the victims in the unsolved double homicide. Mrs. Land said, "I believe that the police aren't going to solve this, either they may want to but it's in their best interest not to and I'm not going to allow them to sweep this under the rug. I believe truly they don't want this case solved."

This story is far from over. Actually, it's just beginning.



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EXCLUSIVE: Witness claims Las Vegas Judge Melanie Andress-Tobiasson offered her a bribe to implicate ‘innocent man’ in unsolved murder case



LAS VEGAS — Aryanne Zappia told the *Baltimore Post-Examiner* that Las Vegas Township Judge Melanie Andress-Tobiasson offered her a bribe in

2017 to implicate a local Las Vegas pimp in the murders of Sydney Land and Nehemiah “Neo” Kauffman.

Zappia was providing information to the Las Vegas Metropolitan Police Department Homicide Division about the unsolved 2016 double homicide of Land and Kauffman.

Tobiasson, in a memo to the *Baltimore Post-Examiner*, called the allegation false. She said that Zappia was threatened by the police and forced to make that allegation against her.

Zappia denied Tobiasson’s assertion and said that Tobiasson did indeed offer her a bribe.

In a separate incident, Connie Land, the mother of Sydney Land told the *Baltimore Post-Examiner* earlier this month, that Tobiasson asked her to turn over text messages and other records pertaining to Land’s contact with homicide detectives and other members of the Las Vegas Metropolitan Police Department to her, because according to Land, Tobiasson claimed the records were being requested by the FBI.

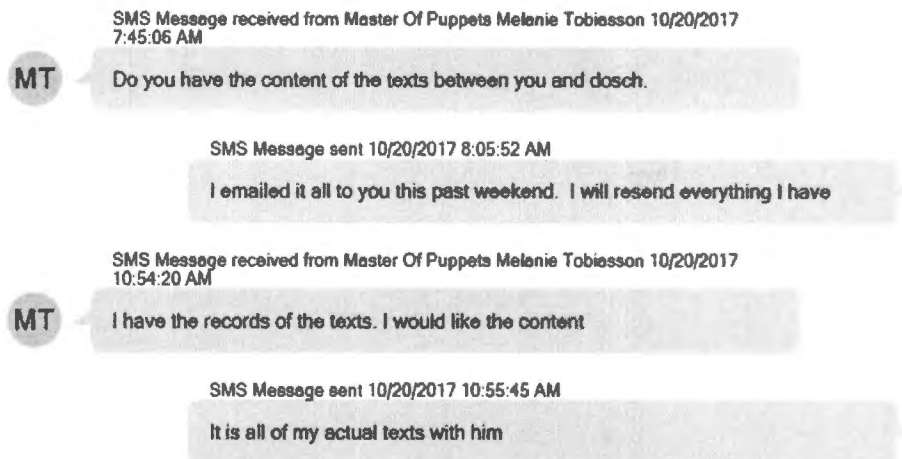
SMS Message received from Master Of Puppets Melanie Tobiasson 10/20/2017 7:06:36 AM

MT I haven’t heard much today. We kind of just have to sit tight right now.

SMS Message received from Master Of Puppets Melanie Tobiasson 10/20/2017 7:06:37 AM

MT I have a plan. I need everything you have. Texts. Emails

Land and Zappia claim the FBI Las Vegas Division and the LVMPD Criminal Intelligence Division were involved in the investigation of both incidents.



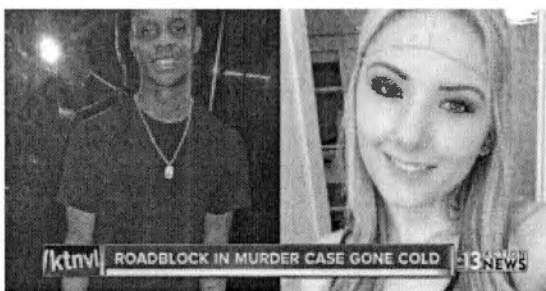
On Friday the *Baltimore Post-Examiner* requested comment from the FBI Las Vegas Division and the US Attorney's Office for the District of Nevada on questions pertaining to certain aspects of this story. The FBI did not respond. The US Attorney's Office replied, "We do not confirm or deny ongoing investigations."

In this multi-part exclusive *Baltimore Post-Examiner* story, you will hear a compelling and disturbing account of alleged corruption, unethical behavior, lies, the FBI and Vegas cops.

On January 21 the *Baltimore Post-Examiner* published '[Judge claims FBI refused information on police corruption probe after pressure from LVMPD](https://baltimorepostexaminer.com/judge-claims-fbi-refused-information-on-police-corruption-probe-after-pressure-from-lvmpd) (<https://baltimorepostexaminer.com/judge-claims-fbi-refused-information-on-police-corruption-probe-after-pressure-from-lvmpd/2019/01/21>).

In that story Tobiasson claimed that she was giving information to FBI Las Vegas Division Special Agent Kevin White, relating to alleged corruption in the LVMPD and the Clark County District Attorney's Office pertaining to sex-trafficking, underage prostitutes, murder, and corrupt cops.

Tobiasson said that there came a time in 2017 when White told her that he was ordered to cease talking to her by his boss, the number two agent in the Las Vegas FBI office because White claimed the FBI was pressured by an assistant sheriff of the LVMPD to have White stop contact with her.



Sydney Land and Nehemiah "Neo" Kauffman. (Screenshot)

Earlier this year the *Baltimore Post-Examiner* conducted a recorded interview with Zappia, who is the sister of Frankie Zappia, whose name surfaced during the 2016 double homicide of Sydney Land and Nehemiah Kauffman. Both women are the step-daughters of now-retired LVMPD officer Daniel "Dano" Giersdorf. LVMPD Vice Detective Greg Flores is the godfather to Frankie Zappia.

For more information on the 2016 murders refer to our February 4 story, '[Las Vegas sex-trafficker who is suspect](#)

[in unsolved double homicide threatened victims weeks before the murders.](https://baltimorepostexaminer.com/las-vegas-sex-trafficker-who-is-suspect-in-unsolved-double-homicide-threatened-victims-weeks-before-the-murders/2019/02/04) (<https://baltimorepostexaminer.com/las-vegas-sex-trafficker-who-is-suspect-in-unsolved-double-homicide-threatened-victims-weeks-before-the-murders/2019/02/04>)

Tobiasson makes contact with Connie Land

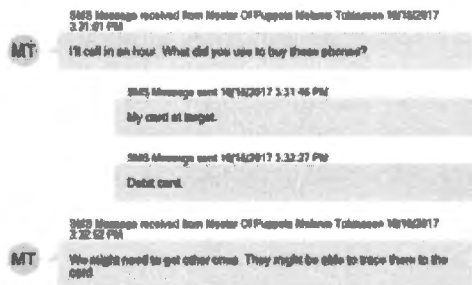
In April 2017 Tobiasson contacted Connie Land by sending her a Facebook message:

"Hello Mrs. Land. I recently saw the article on the KTNV website and thought maybe now was the appropriate time to reach out to you. I have a world of information I can share with you. I have battled this problem for some time and hope you will allow me to share my story with you. Perhaps two moms can do more together than the police, and the media and the general public who refuse to believe that this pimps, human trafficking and prostitution are epidemic and are indiscriminate. My phone number is [redacted]. Melanie."

Land met with Tobiasson for the first time on May 7, 2017.

According to Land, through the course of her involvement with Tobiasson, from May thru October of 2017, Tobiasson told Land that her life was in danger, that the police could not be trusted, that she was being followed and that they had to purchase burner phones and use alias' when communicating.

Text messages between Tobiasson and Land confirm this:



Tobiasson:8/27/2017 4:34 PM – My guess they aren't working on shit.

Land:8/27/2017 4:31 PM – Yep. Bad people go free. I feel so sorry for the victims. Their wounds being ripped back open to hear these criminals will walk free. I just don't know how vocal to be about this. I would never want to jeopardize something bigger they are working on.

Tobiasson:8/27/2017 4:17 PM – It's more terrifying than disheartening because bad people are getting away with really bad stuff and good people are getting screwed.

Tobiasson:8/27/2017 4:03 PM – What I've learned over the last 2 to 3 years has completely changed me. I never wanted to believe that that there was so much corruption and lack of ethics and decency.

Tobiasson:8/27/2017 3:43 PM – I think Vice ignored me because they are dirty. 2 of the detectives I was giving info to are mixed up in the federal investigation where the Vice guys were having sex with the prostitutes of the pimps they were investigating. Those pimps are going to get released as a result. Then they out me to one of Shane's girls. Have to wonder what their motivation was. Not really. I know. One was taking kickbacks from strip clubs. It's disgusting.

Tobiasson:8/27/2017 2:17 PM – It's awful and when you feel that you are the only one who cares it's like a lonely place to be. I tried to get Vice to pay attention and listen and do something for 18 months and they just couldn't be bothered.

Tobiasson:10/18/2017 3:32 PM – We might need to get other ones. They might be able to trace them to the card.

Tobiasson:10/18/2017 3:31 PM – I'll call you in an hour. What did you use to buy these phones?

Land:10/18/2017 3:31 PM – My card at Target. Debit card.

Tobiasson:10/1/2017 11:05 PM – They are watching you like a hawk. We need to get different phones tomorrow.

Land told the *Baltimore Post-Examiner* that she believed what Tobiasson was telling her was the truth because of her position as a judge. Tobiasson wanted to know what information she was providing to the police, specifically what Land was talking to LVMPD Homicide Detective Mitchell Dosch about, the detective assigned to her daughter's homicide investigation.

Land told the *Baltimore Post-Examiner* that Tobiasson claimed that LVMPD Detective Jarrod Grimmatt, Dosch's partner after the 2016 murders, had provided Tobiasson details about the homicide investigation.

Land said that Tobiasson, in turn, would tell her about what she had heard from Grimmatt. According to Land, some of the information Tobiasson had provided to her was specific and not publicly available, including facts about DNA evidence that was found at the crime scene.

Last year when the *Baltimore Post-Examiner* was in contact with Tobiasson she had written in an e-mail to the *Baltimore Post-Examiner* dated May 13, 2018, that *"We know he [Shane Valentine] was involved based on everything I was told by the original homicide detective, Grimmatt."*

When the *Baltimore Post-Examiner* interviewed Tobiasson last year, which was the basis for our January 21 story, Tobiasson commented during our recorded interview with her that the inside information that she had on the Sydney Land/Nehemiah Kauffman double homicide was provided, *"By the detective on the case,"* and *"I find out from the homicide detective."*

Grimmett is mentioned in text messages from Tobiasson to Land:

Tobiasson:7/22/2017 8:59 PM – I haven't heard anything. I'm in Malibu til next Friday. I will reach out to Grimmatt when I get back.

Tobiasson:5/13/2017 1:42 PM – Haven't heard from Grimmatt but my other friend is in DC and promised he would call me first thing Monday morning.

In 2017 Tobiasson told Land that she had a "friend," an FBI agent, to whom she was providing information to. At first, Land did not know the FBI agent's name. She later learned that the agent was Special Agent Kevin White. Land said that Tobiasson usually referred to White as her "friend," during communication with her.

Land said that Tobiasson told her that the FBI had taken over the investigation into the murder of her daughter Sydney and that the FBI needed all records of any communication Land had with Detective Dosch because according to Tobiasson, S/A White wanted those records ASAP.

Believing that the FBI was now involved in the investigation of her daughter's death, she turned over all documents in her possession, including phone records, text messages from her daughter's phone and other records to Tobiasson. Land said she never met White.

Text messages between Tobiasson and Land confirm Tobiasson wanted the information:

Tobiasson:10/23/2017 7:54 AM – Perhaps we should not reference what he does in texts.

Land:10/23/2017 7:41 AM – What did your FBI friend say when you told him...

Land:10/20/2017 10:58 AM – I'm sending over phone records. The only problem with these, if he has called sometimes it shows up on my phone as no caller ID.

Land:10/20/2017 10:55 AM – It is all my actual texts with him.

Tobiasson:10/20/2017 10:54 AM – I have the records of the texts. I would like the content.

Land:10/20/2017 8:05 AM – I emailed it all to you this weekend. I will resend everything I have.

Tobiasson:10/20/2017 7:45 AM – Do you have the content of the texts between you and Dosch?

Tobiasson: 10/20/2017 7:39 AM – I don't know if I have the texts.

Land:10/20/2017 7:27 AM – I have sent all texts with Dosch. I have texted Grimmett. I've only sent a few emails. I will print up my phone records today and send over to you.

Tobiasson:10/20/2017 7:06 AM – I have a plan.I need everything you have. Emails.

Tobiasson:10/20/20-17 7:06 AM – I haven't heard much today. We kind of just have to sit tight right now.

Tobiasson:10/20/2017 7:05 AM – Do you have the content of your texts between you and Dosch.

Land:10/14/2017 9:31 PM – I have emailed you all the text messages with Dosch. Does not include photos. Texts with [LVMPD Vice Det. Greg] Flores. Syd's data talk and text messages.

Tobiasson:10/14/2017 3:55 PM – You have no reason to feel like an idiot. They are corrupt assholes. It wouldn't have mattered how you treated them.

Land:10/14/2017 10:22 AM – I will send you whatever you like.

Tobiasson:10/1/2017 6:35 PM – FBI agent called at the same time.

Tobiasson:5/13/2017 8:53 PM – I want to hear everything. Dosch apparently sucks.

Tobiasson broke off contact with Land on October 23, 2017 for reasons that will be explained in another story.

Land had visited the FBI Las Vegas Division several times prior to Tobiasson ever contacting her. Land said that was trying to get the FBI involved in the homicide investigation from the start, to no avail, because she believed early on that corruption may have been involved in her daughter's murder because of the connection with the sex-trafficking industry.

Land told the *Baltimore Post-Examiner* that in October of 2017 she informed Homicide Detective Mitchell Dosch that she had turned over all the communication records between her and Dosch to Tobiasson. As a result of that, Dosch later introduced Land to LVMPD Criminal Intelligence Detectives Mark Gregory and Mike Wilson, whom she later interviewed with.

Land said she was interviewed by FBI Las Vegas Division Special Agents Vinitha Pandey and Richard Smith in 2018. The *Baltimore Post Examiner* has received documentation from Land that confirms that she had contact with those agents.

The *Baltimore Post-Examiner* obtained copies of the records that Land turned over to Tobiasson.

Aryanne Zappia enters the story

The *Baltimore Post-Examiner's* exclusive recorded interview with Aryanne Zappia was extensive. Only transcribed excerpts from that interview that are pertinent to this story are contained here.

Zappia from the start was forthcoming about her past history. She said she is a recovered addict and former prostitute. She has since moved on with her life.

Zappia reached out to Sydney Land's mother, Connie in November 2016. Zappia and Sydney were friends. When Land made contact with Tobiasson in 2017 she introduced Zappia to Tobiasson.

Excerpts from the interview are as follows:

Zappia: You're the only person I ever gave an interview to. I never sat down with anyone or taken the time to interview with anyone, so I just want to clarify that.



LVMPD Det. Mitchell Dosch (Screenshot)

Zappia: I want to clear a couple of things up that was said in your original story. I have never told Melanie, Judge Tobiasson, I have never told her that my stepdad Dano Giersdorf and Detective Dosch knew each other or that there was any relation. In fact, I have actually told her my stepdad and Dosch never had a relationship, they don't know each other. The extent of their relationship or knowledge of each other would have simply been because they both work for Metro, and that's not me defending anyone or attempting to discredit anyone, but the truth is my step-dad does not know Dosch. So that was one thing that I wanted to clear up because the story indicated that I had specifically told her that, and I never did.

BPE: Tell me who your dad is, what his name is and where he's at right now, as far as you know?

Zappia: He is my stepfather, not my dad. My stepdads name is Daniel Giersdorf. He was a Metro police officer and he is currently in Chattanooga, Tennessee.

BPE: Do you know what he did for Metro, was he a detective, patrolman, what do you know about him?

Zappia: To be honest with you I know that in 1993, sorry, '96, '97, he worked for vice. He only worked for vice for six months and then he went on to tourist safety crimes. He was also a Metro cop that was on a motorcycle and for the majority, the largest portion of his career, he was just a regular patrol officer that worked in the north, either north or northwest jurisdictions as a patrol officer.

BPE: OK, go ahead and continue.

Zappia: I have had numerous encounters with FBI agents, criminal intelligence police officers. I just sat down and talked about my personal case of human trafficking, so with my own vice detectives, district attorneys, and Judge Tobiasson. Throughout the course of this, I never denied I have a background in addiction. I've been in recovery for almost three years now.



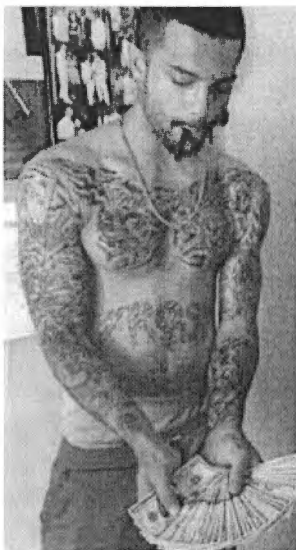


Shane Valentine

Zappia: Now, November 2016, Sydney's already dead. The funeral has happened, and now there are all these accusations coming out immediately, Shane Valentine killed Sydney and Neo. Shane Valentine everywhere you go, anyone you ask, anyone talking about this story, it's Shane Valentine, Shane Valentine, Shane Valentine. I'm not at all, at all, and I want to make that very clear going to say, Shane Valentine is innocent. He's a fucking piece of shit and he should rot in hell for what he did, just the threats alone to them. He's a fucking horrible person, but in my heart and in my gut, I did not believe that Shane was either (a) the only person involved in that series of events or (b) the person that actually killed them. The reason why is, everyone knows for a hundred percent, Frankie has even said this to Homicide, after Shane Valentine pulled the gun on them at the beginning of October, and I've told this to Homicide as well, we'll get to that, after Shane Valentine pulled the gun on them, Sydney, Frankie, and Neo were terrified of Shane. They would never, ever opened the door for Shane Valentine to come inside, and as we know there were no signs of forced entry, they didn't break in. Whoever killed them, they were familiar with and trusted them because they allowed them into their home.

Zappia: I reached out to Connie on Facebook. It was a message of condolence, because of how close my family and I were to Sydney, how well we knew her and how tragic her death was. I offered her condolences, but I did tell her, I would like to speak to you if you have the time. She actually messaged me back and said thank you for the kind words. I called her that night and explained my background. I never ever denied my background in prostitution and drug addiction. I never pretended like that doesn't exist. Connie said anything you want to tell, go tell Homicide. Detective Dosch is, I think the other guy is Grimmert, is on the case, so you can go down there and tell them.

This is confirmed in a text message from Connie Land to Detective Dosch:



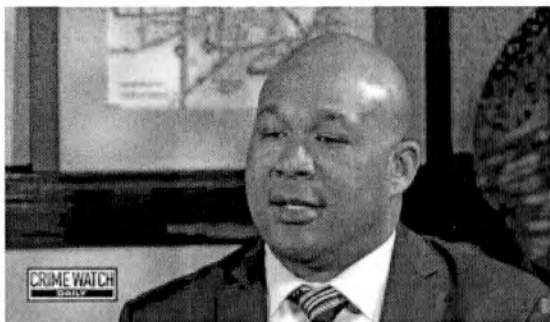
Anthony Galasi aka Frost

(Facebook)

Land: 11/30/2017 6:49 PM – *Aryanne Zappia, Frankie's older sister called me today. She would like to speak with you.*

So, I went down to Homicide and I sat in front of three detectives and I know it was Detective Dosch, Detective Grimmitt and I do not remember what the third homicide detective's name was, I have no idea. I sat down with them and this is in December of 2016. I explain to them my background, from the very beginning. I let them know that I do have an open investigation right now about, it's now closed, I have an open investigation right now against a guy I call Frost. His name is Anthony Galasi [Aryanne's former pimp], he's from the Bay area and this is what happened, and this is my background. The point in my putting that upfront is, address those things right away it doesn't leave any room to make it seem like I'm protecting myself from my own choices. I let them know from the beginning, that's the first thing I say to them.

I tell them I knew Sydney Land, I'm Frankie Zappia's sister. Now they're listening... I tell them all this, the detective looks me in the face and tells me I'm a liar...that I'm making all this up and it sounds like a personal vendetta against my sister for getting me into the game. His exact words out of Dosch's mouth, that is what Detective Dosch told me. OK, fantastic, so I leave. My stepdad took me down to homicide as well. My step-dad was the only person who knew I was going to go to homicide...he never told anybody. Nobody ever knew until Detective Dosch told my mother that I said something. Dano never said anything. He allowed me to go down there and do the right thing, he took me... I leave, and I'm extremely upset.



LVMPD Det. Jarrod Grimmitt (Screenshot)

BPE: Did Dano know what your suspicions were?

Zappia: I don't think how deep my suspicions were, but he knew I had something I wanted to say. When I asked my step-dad I want you to take me down to Homicide, I have some things I need to tell them about Sydney, he didn't question me, he didn't say what are you going to say, that never happened. It was just OK, let's go right now, and he took me.

BPE: When was the last time you spoke to anyone in Homicide?

Zappia: February of 2017.

Master of puppets and FBI agent "Jason"

Zappia: Now we get to October of 2017, the beginning of October and I'm at work one day and I get a call from Connie and she asked me a couple of questions that I don't remember exactly what the questions were and all of a sudden I hear someone tell me, stop talking and I'm like, stop talking, it's not Connie's voice, I stop talking. She's like I'm not going to tell you who I am, I have a couple of questions for you, you can trust me and Connie's like, you can

trust her, all of this, and again did not know who I was speaking to at this time.

Maybe a week and a half I'm talking to this person, it sounds insane when I say these things out loud, but I didn't know who the hell I was talking to. I didn't know her name, I can't remember what she went by, master of puppets, so that was the nickname that she had, was master of puppets and that's what she referred to herself as. I can't trust her at this time because nothing has happened to me. I have [LVMPD Vice Detective] Greg Flores who tells me they're working so hard to find Frost, but nothing's coming of it.

Finally October 11th, October 10th she tells me if I can get Frost arrested and she referred to him as Frost, can you trust me. I said if you have the kind of magical power to get Frost arrested, then you have my hundred percent trust because then you're obviously someone who can do something. The next day I get a phone call from Greg Flores who tells me, we found Frost, he's been arrested, we're having him extradited to Vegas, literally the next day. It's literally a year since I opened my case, the day before, this mystery woman tells me she can have him arrested with one phone call, one phone call is what she told me. I said if you can make that happen I'll trust you. So she does it. Flores tells me and Frost's on his way to Vegas, and now we need to buckle down and we're going to be going to court. She did it. I call her, I let her know, hey, thank you because he's been arrested and all it took was one phone call.

BPE: And who are we talking about now, who was this person?

Zappia: Melanie Tobiasson. So he gets arrested and now that I feel I can trust her I decide, I will officially meet you, no problem. Up until this point she's offering to pay to get my car fixed, she's offering to pay for my son's birthday party, all these things. I don't know this woman, I never met her, I don't know her name, I know her as master of puppets, but she knows everything about me. She has literally told me my life story and I have no idea how she knows these things, but she knows more about me than I ever told anybody, so it's impressive. So I finally agree to meet with her, and she asks me where we can meet. I tell her at that time which was close to Boca Park because my car was so damaged I don't want to drive very far, so if we could meet somewhere in Boca Park. There's a sushi restaurant, I don't know what it's called now. So, I meet her in the sushi restaurant. I met Kevin White days before.

BPE: Who's Kevin White?

Zappia: Kevin White's an FBI agent who at that time actually told me his name was Jason. He sat down with me...

BPE: How did you meet him?

Zappia: So Melanie, before I knew who she was, she told me that she had a friend who was able to make the phone call that got Frost arrested and he's a good guy, he could be trusted. She didn't tell me at that time that he was an FBI agent, but that he is the reason that Frost was able to get arrested, and that I could trust him and of course, now I one hundred percent trust her. It was the day before I met with Melanie, that I met with Kevin. So we sit down at a Starbucks and...

BPE: How did you know he was an FBI agent?

Zappia: I actually didn't know he was an FBI agent until we sat down because he flashed, he quickly flashed a badge, he told me his name was Jason and that he works for the FBI. I never met with an FBI agent prior to this so I don't know what I'm looking for. Growing up as a cop's kid, I assume a badge is a badge, so I don't know. Now I do, but at that time I don't know what a real FBI badge is. We're meeting at a public place, I'm assuming that it's all fine and dandy. This woman just made it possible for Frost to get arrested, I have nothing but trust in this entire situation. So I sit down with, at that time I believe his name to be Jason, so but Kevin White, I sit down with him and I'll get to how I knew Kevin White's name in a little bit, but I sit down with him and the entire time he's asking me about my addiction and he's letting me know that when my case goes to court, that it's not going to stand because I'm an

addict. Even though I'm in recovery because I was in active addiction when I was a prostitute, that my testimony won't mean anything because they will use the fact that I'm an addict against me, so there's, his exact words were, there's no point in testifying.

What did FBI Special Agent Kevin White aka "Jason" want to know

BPE: When you were talking to Kevin White aka Jason, did he ever tell you he was actually investigating corruption and he thought that there was actual corruption in the police department?

Zappia: He was after corruption in the police department, yes, he did tell me.

BPE: He told you that?

Zappia: He did tell me that, yes.

BPE: OK. Did he say how dangerous it is or anything like that?

Zappia: Yes he did. He told me that if I'm not careful the more I talk, and he has heard my name numerous times through different FBI agents and different forms of law enforcement that they will kill me. That's why I told you he warned me so many times to stop talking. He said I'm not going to do anything, I'm not against you, he said I am trying to prove that the police department is more dangerous than these criminals that we have on the street.

BPE: What information did he want to know when you were talking to Kevin White, what information was he talking to you about?

Zappia: When he was talking to me he started out talking about police corruption. He actually told me that I couldn't trust Melanie, that she was crazy, but he also tried to tell me like not testify in my case because it wasn't going to go anywhere, that I would be in more danger testifying than I would than I would just be letting it go.

BPE: He actually said that about Melanie?

Zappia: Oh yeah, he told me specifically that Melanie was, oh Melanie said that you were a really good friend of hers and he was like no, she's absolutely crazy, she provided information that I needed.

BPE: Did he say what that information was?

Zappia: No, he did not tell me what it was. I didn't ask either, I really didn't think to.

BPE: What was he asking you, what you knew?

Zappia: He was asking me about my case with Frost, he was asking me about like when I went to Homicide and sat down with Homicide and gave them a statement, what did I say in that statement, and I told him the same thing I told you. I can't verbatim tell you what I said because I don't remember, it was two years ago, I couldn't give you a hundred percent, like this is what exactly was said, this is like a basic synopsis and he was like oh, Melanie told me your history with drug addiction and that's when he just solely focused on not testifying because my addiction would get the case thrown out.

BPE: Did he ask you if you knew anything about police corruption on Metro?

Zappia: Yes, he did.

BPE: Did you tell him anything?

Zappia: Mind you, when I met with him it was before all this stuff with Melanie had come out. When I sat down with

him I told him that I didn't really know, that I had my suspicions that there is corruption after talking to Melanie, because Melanie and I had talked about two weeks before I met with him, because she had kind of opened my mind to the corruption thing, but I hadn't gone through with Melanie the bribe and stuff. I didn't have the judgment call you would say that I have now. But he mentioned different cops. Some of the same ones that Melanie was talking about. He told me that Detective Dosch wasn't crooked, that Detective Dosch is stubborn. He did say that he doesn't think Flores is necessarily corrupt but that he has alternative motives for different things. He was more focused on if I knew things about Sheriff Lombardo, if I knew things about Al Beas, like all these different people that I never met before.

BPE: Right.

Zappia: Steve Wolfson, I didn't know, the people he was asking about were not people I had any relationship with, just like Detective Dosch I could never say he's corrupt because he never worked a case of mine, so I don't know.

BPE: OK, but when he was talking to you he did specifically mention if you knew anything about Sheriff Joe Lombardo?

Zappia: Yes, the sheriff.

BPE: And District Attorney Steve Wolfson?

Zappia: Yes.

BPE: And Detective Al Beas, former Detective Al Beas?

Zappia: Yes.

BPE: Did you at any time when you knew Kevin White, had contact with him, did you ever tell him about the bribe with Melanie Tobiasson?

Zappia: No, I had not been bribed by Melanie yet.

BPE: When you were talking to the Criminal Intelligence detectives, when you were telling them about the burner phones because you all got because Melanie said you needed them. You said you turned everything over to them, you say that there were also text messages from Kevin White, had text messages too. Who were those text messages to as far as you know?

Zappia: Between Kevin White?

BPE: That's what I'm asking, were there text messages between you and Kevin White?

Zappia: Yes, there was. I think a couple of times he would respond I will give you a call. He would never text anything. His messages were never, he never said anything. In the final day when I met with Criminal Intelligence, I sent him a text message and I told him I feel like he was corrupt and that he lied to me about his name, like I sent him a final message, but he never responded to it. Any message he ever sent me was simply, he'll call me, as soon as he's done with this or give him five minutes, that was the extent of his replies. He never discussed anything via text message.

BPE: When you found out from Greg Flores that Kevin White, Jason, was actually Kevin White, you texted him back and said that, and you never heard back from him after that, is that correct?

Zappia: Yes, and we tried calling the number, by we, I mean I did, Criminal Intelligence called the number while I was sitting in a Starbucks, one of our meetings, the number was no longer active, that number was completely

deactivated after I texted his phone and that I knew he was not Jason, that he was Kevin White.

BPE: Did Kevin White ever acknowledge to you that there was a federal corruption probe of the LVMPD?

Zappia: Yes. He told me that he was the head of the, he was in charge of the looking into the corruption, that there was an ongoing FBI investigation into police corruption.

BPE: OK, and he told you that?

Zappia: Yes, he told me that he was the head of the investigation looking into police corruption, into Metro.

BPE: OK.

Zappia: I felt so discouraged, so let down, I was, and he told me that day, he told me that I could not trust Greg Flores, that he was shady. Melanie had told me a couple times prior to this, when I didn't know she was Melanie, Greg was corrupt and different cops were corrupt but in my specific instance you know that I couldn't trust Greg Flores, he was shady, and did not want to arrest Frost, he was on the payroll of, so many different things were going on. Just basically I couldn't trust him. They let me know before it even happened that Frost was going to walk. They both told me that. They told me it would be safer for me, Melanie as well when I met her that night. She told me there was no point in me testifying because he's going to walk and he's going to know that I spoke against him and he's going to try and kill me. They both tried to warn me not to do it because they were going to let him go, but I did it anyways.

BPE: We're talking about here, Judge Melanie Tobiasson and...

Zappia: Yeah, Judge Melanie Tobiasson and Kevin White, both of them...

BPE: The special agent with the FBI?

Zappia: They both told me not to go and testify, not because they didn't want to see him get arrested but because they knew he was going to walk. They both warned me, and I will say they weren't wrong. They weren't wrong at all. So I met with Jason, Kevin White, and he tells me that.

BPE: What were you going to testify against [Anthony] Galasi [aka Frost] for, what did he do to you. What was the case against Galasi, that you had to testify against him for?

Zappia: It was first-degree kidnapping and human trafficking of an adult.

BPE: And that was you?

Zappia: Me, yes.

BPE: OK.

Zappia: Through the course of all of this, the whole year that's unraveling, Detective Flores and everybody, you know their kind of riding my ass about I've opened this case and so many times girls open cases and they don't show up and testify, and they never specifically used the words wasting their time, but they very much insinuated that there's a good possibility that I'm not going to show up and testify. Without my testimony, he walks. I made it very very clear that I was going to be there, and I was going to testify, no matter what.

Zappia: Now we fast forward back to where we were in October and I've met with Kevin White now, he's got me completely discouraged and then the next day I meet with Judge Tobiasson at the sushi restaurant. Melanie had told Connie, and I was on the phone for the conversation, that the FBI had picked up Sydney's case and they were investigating it and it was going to get solved now. Melanie spit out all these accusations and most of them I didn't

hear, but the ones I did here was Melanie saying they had DNA evidence of [redacted] in the guest bathroom sink of Sydney's apartment, and that is what I heard. There's a lot of other things Melanie said, but they were things that were not directly said to me, they were said to Connie. Melanie said a lot of accusations. My sister in the course of 2017, my 15-year-old sister, commits suicide in Utah, shoots herself in the head, in her car what's called the lookout. Well, Melanie, she told me that my sister did not commit suicide, that my sister was murdered as a repercussion for my stepdad Dano's actions.

BPE: Let's stop there. What actions by Dano, what is she talking about?

Zappia: I don't know. She never specified anything. The one thing Melanie did go on to say, so Melanie's brother Mike, Mike Address, he committed suicide, I think like 19 years ago. Oddly, the police officer that responded to her brother's suicide was my stepdad, Dano. Melanie did tell me that my step-dad responded to it and she also told me that my stepdad didn't properly investigate the death because they too quickly ruled it suicide when no one commits suicide and shots themselves twice in the face, but she believes her brother was murdered. That was Melanie's exact words with Connie present. I was very bothered by that statement because I do not know that my step-dad would ever do that. My stepdad used to go out and party with Melanie, her brother, they all partied together, they would all get drunk, they would all have a good time.

BPE: Did your dad ever tell you how he first met Melanie or her brother, how did he meet them, do you know?

Zappia: He told me that he met Melanie, she was a detective, I think he said a detective or district attorney, I can't remember what he said she was, but he met her at her brother's wedding. I guess Mike invited my step-dad to the wedding and that was the first time he met Melanie.

She pulls out this wad of cash

Fast forward a little bit. I sat down with Melanie after she spit out all these accusations and I'm under the impression she got Frost arrested, which I actually from my own investigation, calling San Francisco, found out that it was just a fluke event that Frost got arrested. He was actually picked up by San Francisco police department for committing a different crime and through looking into where he was they were able to find out that he was in jail and then have him extradited here. They were never notified that he was in jail, but he got picked up for a separate crime, but at that time I believed that what that mystery person, now known to be Melanie was telling me was the truth.

I sat down with her, I met her at a sushi restaurant, I brought my son, and we're sitting down, she ordered a garlic anemone and she ordered a couple of fishbowls and I ordered a drink.

We're talking for a little bit and then she pulls out this wad of cash and put it back in her purse and she put her arms on the table, she's a petite person, really really small person with big lips, and she puts her arms on the table and she says, "I have to ask you something, I admire what you've done. I've looked at the cases, I read what you'd written, I admire what you've done, and I want to make that very clear."

And I was like, "Oh thank you." I'm like, it's not for admiration or to seem like a hero, it's just a matter of trying to right some wrongs and do right by somebody that never wronged me.

Being a voice for someone that doesn't have a voice anymore, and living that lifestyle, and I'm not at all saying that Sydney lived that lifestyle, but being a victim of, and I've never victimized myself, I don't sit and say I'm a victim but in theory of this situation that's what I'm classified as when it comes to Anthony [Galasi].

If I could prevent somebody from going through this I want to. I'm not ready right now but someday I could share my story and people know that regardless of what people are going to say about them, they are not alone. There's someone that believes in them, and I can be that person. I just don't how to go about it, because of my old background. Who wants to listen to a recovering addict slash prostitute? No one wants to hear from me.

She's like, "I do, this is what I want you to do. Money is not an issue, but I know it is for you, you are a struggling single mom. I have the means to make your worries, your struggles go away. All I need you to do is go down to Homicide, tell them because you were fresh off of drugs, and you didn't have a complete clear mentality, that you want to not change your story, but recant on it."

And that's what she tells me. "And I will tell you what to say and what to do and I'll give you the money to do it," and I looked her dead in her face, and I told her, I said, do you understand what changing my story means. It means I lied.

BPE: Right.

Zappia: And that means I'm not sure of anything I said and they're not going to believe me. They didn't even believe me the first time I went in. They're not going to believe me now and the little hamster in my head gets going, and now I'm kind of scared, and I tell myself don't say anything too crazy, just tell her you'll think about it and you'll let her know, and that's exactly what I said, and I ended our meeting and I told her it's getting late, I need to take my son home, I got to give him a bath, get him in bed, I do have work in the morning, because I did. I will let you know, this is a lot to ask of me, I'm going to think about it. Before I leave, we were standing outside, in between the sushi restaurant and the ice cream store, it's like a yogurt store, ice cream shop thing next store. We're standing at the table right in front of it, she says you can't tell anyone including Connie, we had this conversation. And I told her I wouldn't...

BPE: And what was it that she wanted you to change, what's the testimony that she wanted you to change?

Zappia: She never, she never told me. She told me that once I accepted the money that she would tell me what it was, that she wanted me to say. I never accepted the money, so I never knew what she wanted me to say. What she wanted, the only thing she did tell me is she wanted to change, saying that I don't believe that Shane Valentine had involvement in it and to tell them that I knew Shane had involvement and she would give me the reasons why.

BPE: OK.

Zappia: Because my original statement was never that Shane was innocent, but that I didn't believe that Shane killed them — and I still stick to that. That was my statement, I have not changed that theory, I do not believe that he's innocent by any means or any faction of the imagination, but I don't believe that he killed them because he had numerous opportunities to do so, including the day he threatened to kill them, and he didn't.

Zappia: Now, if Neo did Shane dirty and kept things from him that would mean that Shane was, they've been doing home invasions together plenty of times, but there's possibility that maybe that Shane had information that Neo had come upon, there were individuals that were equally or more dangerous and shady than Shane Valentine, and if Shane had that information and Neo was not willing to give Shane what he wanted, and they would never have let Shane in the house, after he had just pulled a gun on them and threatened and he has now shot up Neo's mothers house, they would never let him inside. But if Shane had information that he could provide to another individual to get Neo knocked off, and by knocked off, killed, because of wronging other more dangerous individuals, then Shane would have most definitely done that out of spite and out of pure anger and frustration.

Because if Neo fucked over Shane, then Neo fucked over other individuals and that's the reality of the situation. He's nineteen years old, he's trying to get his feet wet, he's trying to make a name for himself, that's just the way the game goes, that's just what they do.

Judge Tobiasson's response about the bribe

In an email memo to the *Baltimore Post-Examiner* dated May 13, 2018, Tobiasson made reference to Zappia and the bribe:

"Days later, she starts making allegations that I tried to bribe her to say Shane was involved in the double homicide despite the fact that a full ten months before my first conversation with her, she gave a statement to homicide... However, one week after Metro learned the three of us were communicating and also communicating with the FBI, they said whatever they had to divide and conquer, forced Aryanne to accuse me of bribery and accuse the FBI agent of lying...Flores and Dano threatened her and made her accuse me of bribery because that would give them a way to get a search warrant and listen to my phones, which I'm sure they have done or they're doing it without a search warrant for but anybody who lodges a bribery allegation against a public official could probably give the police probable cause to issue a search warrant for the FBI is investigating it because they have the statement that was given to their agent that validates everything I had been saying and so it would be a little disingenuous for them to do an investigation but I'm sure they didn't provide that information to Metro when she made that allegation."

Zappia: I learned from having Frost as my pimp, one thing that every pimp says, and I've been around Frost and his other pimp friends, they all say, you don't have, pimps don't have friends in the game. They have family, people that they kick it with but there are no friends in the game. Your circle is you and your bitches, and that's what a pimp will say. It's you and your bitches, you don't have friends, there are people you kick it with, there are like-minded individuals but it's you and your team and that's what it's called, that's why you're a team, that's why they're your pimps, that's why you're their bitch, it's a team, you're a team and that's what matters to each other. You're making money for him, he's living off you, he's supposed to be building you up etcetera, you guys against everybody else and every pimp says that. So in the technicalities of the game, Shane and Neo may have been doing shit together but they weren't friends, you don't have friends in the game. Family doesn't matter, I learned that from me and my sister, blood doesn't matter, nothing matters. Your loyalty to your pimp and your bitches is your only loyalty. There is no other loyalty, it's a dog eat dog world. That's how the game is, that's why it goes so south so quick and that's why these pimps instill fear in these women because you are their source of income, their shelter, their food in their stomachs, their means to survival and they instill fear, so you don't leave. The fear of leaving is what they instill in you. You don't want to leave because of what they are going to do to you. If they have no loyalty to you and you're everything to them, that allows them to be who they are, they don't have loyalty to anybody.

Zappia: So her wanting me to recant a statement that I've already given that they already didn't believe from the beginning was unfathomable for me and I wasn't, no amount of money would make me do the wrong thing. I already did the wrong thing for money, and that was prostitution. I will not take a dollar amount to go against my better judgment. I've now already put my life in jeopardy, I'm not putting it further in jeopardy by changing my statement and having police officers think I'm a compulsive crazy person. So, that night I leave the sushi restaurant, I get in my car...

BPE: Let's go back, so we know, what year and month are we talking about when that meeting with the judge happened?

Zappia: October of 2017.

BPE: OK.

Zappia: I leave, I'm sorry I don't leave, I get in my car, I put my son in the car, I get in the car. I wait until I see Melanie leave, I get on my phone and I call Connie, and because again, the original plan of contact for Melanie to even have my number, to begin with, was Connie. So I call Connie and I ask her like hey, I have a question for you. How well can you trust the judge and she says oh, I trust her. I said well I don't. I did not at that time, I did not tell Connie about the bribe. It wasn't until months later that the bribe even came out. I wasn't the one who told Connie. [Las Vegas Metropolitan Police Department] Criminal Intelligence was, and I will get to how that came about. I told Connie that I don't trust her at all, I found it very weird that she knows all this information on me, but she doesn't know my dad or my stepdad. So at this time, you know our prior conversations, she has led me to believe that she does not know my step-dad, she doesn't know him from anyone. The only reason she even made them, because I mentioned

my step-dad and that's it. Well...

BPE: We're talking about Judge Melanie Andress-Tobiasson right?

Zappia: Yes.

BPE: OK, go ahead.



Daniel Dano Giersdorf, Melanie Tobiasson, Mike Andress

Zappia: And so she tells me she doesn't know him nothing like that. But the whole time she's telling me he was a crooked cop and we talked so many conversations, she's talked so much crap about so many different cops, sergeants and sheriffs, people like I don't even know or had no involvement with. In my own personal case, I've heard these names because of Connie but they're not, in terms of what I'm telling you they're not, besides Greg Flores and my step-dad, they are not individuals that directly had anything to do with me. I'm talking Sheriff Lombardo, just different individuals that I have not personally had to deal with or had any knowledge of. She mentioned that Dosch is crooked and all of this and that Grimmitt can be trusted and she's going through all these different names, district attorneys and all these people that can't be trusted. I haven't gone to court yet. There are different individuals I never heard of, I don't know anything about it. I have now turned my back on Greg Flores, the detective on my case and now we're four weeks away. I'm supposed to go to trial the end of November, preliminary, not trial, preliminary hearing in November and I know it's coming.

I have turned my back on Greg Flores because of who I now know to be the judge, that I can't trust him that he is horrible, he's shady, he's not going to solve it that's why he's been running amok and doing whatever it is he wants. I turned my back completely on him. I tell Connie, well I find it so weird that she knows this information but hasn't, the judge has no idea who my step-dad is. Twenty-three years as a cop, there's no way this judge never even at minimum, heard of him, and that's what she's led me to believe. Of course, she knows, of course, the judge knows your dad, she sent me a picture of her with him. I said wait, what and Connie's like yeah, I'm going to send it to you, so she sends me the picture. It's a picture of Judge Tobiasson holding up her badge and my step-dads with her and other individuals in the picture. I immediately text the judge, like you're a fucking lying piece of shit. I'm going to let the world know what a shady piece of shit that you really are, fuck you, you fed me doubt, you had me doubt my own case.

She led me to believe that there were people that were trying to kill me because of information I had, and I did say horrible, I admit that I said horrible, horrible things to the judge out of anger and frustration. She bribes me literally, to go and change my statement, she has told me my sisters death was not a suicide, that it was a murder, she's told us that the FBI has Sydney's case, she told me that my case was going to go nowhere, and Frost is going to walk. All this crap. So I decide after I get off the phone with Connie, I've received this picture, I'm going to call Greg Flores and

I'm going to tell him everything that happened because he's going to point me in the right direction and this is all going to get resolved because again, I don't know how the system works, this is my first time through all of it. It's been a very draining emotional two years.

BPE: Right.

At this point, for a lack of better words, the cat's out of the bag. This is confirmed in text messages between Tobiasson and Land and what caused Tobiasson to break off contact with Land and Zappia:

SMS Message sent 10/24/2017 2:51:58 PM

Melanie I spoke with Aryanne yesterday after she spoke with you. she became suspicious and untrusting after you lied to her about your association with Dano. There would have no reason to think you were not being upfront about knowing Dano. There was never a mention about the photo after the night you sent it. I didn't know. If the truth had been told, it would not have made a difference. A bad cop is a bad cop. She felt you had a personal vendetta to settle with the people we were working on getting. After your meeting she felt very uneasy about your intentions. She asked me if I trusted you- I told her I absolutely trusted you 1000%.

Land:10/24/2017 2:52 PM – Melanie I spoke with Aryanne yesterday after she spoke to you. She became suspicious and untrusting after you lied to her about your association with Dano. There would have been no reason to think you were not upfront about knowing Dano. There was never a mention of the photo after the night you sent it. I didn't know. If the truth had been told, it would not have made a difference. A bad cop is a bad cop. She felt you had a personal vendetta to settle with people

we were working on getting. After your meeting she felt very uneasy about your intentions. She asked me if I trusted you – I told her I absolutely trusted you 1000%.

Land:10/23/2017 3:10 PM – You met Aryanne yesterday...

Land:10/23/2017 2:51 PM – Trust with who? Why would she not trust you based on an old photo?

Tobiasson: 10/23/2017 2:50 PM – Trust is gone.

Tobiasson:10/23/2017 2:49 PM – And that's the last text I am sending to anyone about anything.

Tobiasson:10/23/2017 2:49 PM – She did this because of the picture and now she doesn't trust me.

Tobiasson: 10/23/2017 2:48 PM – You're wrong. It does change.

Land:10/23/2017 2:46 PM — Nothing changes. We still move forward.

Land:10/23/2017 2:45 PM — I figure whatever she says would have to be proven regardless. We never really gotten into Dano or that part of her past. I don't who any of the players are. Our focus has been Frost and that incident and Sydney – discussing different possibilities.

Land:10/23/2017 2:40 PM — How did we lose our best witness? Aryanne sent me a message and said she is going to get an attorney. She can still provide information...

Tobiasson:10/23/2017 2:34 PM – Well it's done now because we have lost our best witness.

Land:10/23/2017 2:02 PM – I understand. As I have said, the last thing I would want is for this to end badly. I want justice more than you.

Tobiasson:10/23/2017 1:45 PM – I have told you everything and you have repeated some things I have asked you not to. If they get a heads up as to what I know, this ends bad.

Land:10/23/2017 11:03 PM – Look from my point of view. My daughter is murdered – her friends did it. No one is talking – there's police corruption on every level – and I am absolutely no close to the truth. I now have absolutely no one to go to with information. Your friend is not concerned with Sydney unless it is directly related to corruption. So I want only to find the truth and don't know who to go to and who I can trust to tell anything. I am told not to post on

any social media – so basically keep my mouth shut and have faith people are working on this murder when up to this point not a fucking thing has been done. I have no faith in the justice system or anyone in it. What if your friend is doing nothing on her murder – then I am stuck.

SMS Message received from Master Of Puppets 10/23/2017 10:45:18 AM

Not the point. You will do what you are going to do and I hope it doesn't tipoff the wrong people that things are being done because the more they know the more they can cover. I hope, for your daughter and Neo's sake, that doesn't happen. I have told you things in confidence that were told to me. You have shared them with other her people and put them in writing thereby jeopardizing my relationships with those still willing to give info. The fact you can't see the problem is in fact the problem.

Tobiasson:10/23/2017 10:45 AM – Not the point. You will do what you are going to do, and I hope it doesn't tipoff the wrong people that things are being done because the more they know the more they can cover. I hope, for your daughter and Neo's sake, that doesn't happen. I have told you things in confidence that were told to me. You have shared them with other people and put them in writing thereby jeopardizing my relationships with those still willing to give info. The fact you can't see the problem

is, in fact, the problem.

Tobiasson:10/23/2017 10:33 AM – To put certain things in writing is beyond comprehension. If I ask you not to share something, I have a reason and when you do, it says all I need to know. Want nothing more than to expose everything and everyone but I know more than ever how things work and now I realize that I just have to keep to myself. Transparency doesn't work in a situation where you know there is corruption and deception. Sorry but I regret sharing the things said to me because they are now shared with other people and memorialized in writing. And to send that picture is just beyond my comprehension.

Land:10/23/2017 9:48 PM – You've never confirmed your friend is even working on her murder. Police corruption will not prove who killed her.

Land:10/23/2017 9:45 PM – Melanie – I have placed my search for Sydney's killer in your hands. I know you want justice and exposure just like I do. I connected you with Aryanne in an effort to expose the corruption in Metro and to help fill in missing pieces. I am not sure what you discuss. You ask me not to say things to her and I am sure you tell her not to say things to me. It raises concerns as to why you were doing so. I also don't appreciate blatant lies. It makes me question someone's integrity and motives. If we want the truth to come out – then there has to be transparency and trust among us. We all have a common goal. We have all shown each other our openness and honesty. In order to accomplish what needs to be done, we need to remain honest and open with each other, or doubt and suspicion will interfere as it is already showing by the conversations today. I have never spoken to you disrespectfully. You don't need to come at me like that. I have never spoken to you like that, and never will. I expect the same courtesy. Nothing will stop me from uncovering the entire truth about what happened to Sydney.

Questions unanswered

Where was the information that Land was providing to Tobiasson going, if not to the FBI?

Why did Tobiasson tell Land, the grieving mother whose 21-year-old daughter was brutally murdered, that the FBI was investigating her daughter's homicide, when in fact they were not, giving her false hope?

Why was confidential information related to the double homicide being shared with Tobiasson by the homicide detective involved in the case?

Much more to come in part two of this story about the FBI and the LVMPD, including more excerpts from the *Baltimore Post-Examiner's* exclusive interview with Aryanne Zappia and texts from FBI agents.

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EXHIBIT 4

Part 2

EXHIBIT 4

Las Vegas Detective calls Baltimore Post-Examiner story on unsolved murders 'filth' and 'filled with lies'

LAS VEGAS

— Shortly after the Baltimore Post-Examiner published “



(<http://baltimorepostexaminer.com/exclusive-witness-claims-las-vegas-judge-melanie-andress-tobiasson-offered-her-a-bribe-to-implicate-innocent-man-in-unsolved-murder-case/2019/02/18>) **EXCLUSIVE: Witness claims Las Vegas Judge Melanie Andress-Tobiasson offered her a bribe to implicate 'innocent man' in unsolved murder case** (<http://baltimorepostexaminer.com/exclusive-witness-claims-las-vegas-judge-melanie-andress-tobiasson-offered-her-a-bribe-to-implicate-innocent-man-in-unsolved-murder-case/2019/02/18>)." on Monday, the lead detective, in that case, called the story "filth" and "filled with lies."

Las Vegas Metropolitan Police Department Homicide Detective Mitchell Dosch emailed Connie Land, the mother of Sydney Land, one of the victims of an unsolved October 2016 double homicide after the story was published:

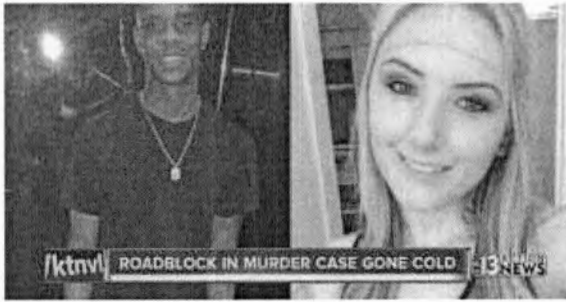
"If you haven't heard, a new article from the Baltimore Post-Examiner journalist went out today. It's filled with lies as it pertains to me. Somehow the journalist got copies of the text messages between you and Judge Tobiasson. I can assure you it wasn't from me. Nobody understands how these articles are having a significantly damaging impact on the investigation. People are going to believe this stuff is true. You and Steve need to be aware of this filth. I'm sorry."

*Nehemiah Kauffman and Sydney-Land
(Screenshot)*

Mrs. Land responded to Det. Dosch as follows:

Good morning Detective

I read the article. Doug contacted me regarding the interview with Melanie.



I provided information to him regarding my communication with the judge. It states this in the article. I provided the content with Melanie.

Melanie provided a lot of information to him regarding the murder investigation, corruption and bribe, confirming the FBI investigating her last year. She stated in her transcript her information from this case was coming from Detective Grimmert, although the name was redacted. I heard the transcript and she stated Grimmert and homicide detective. Unfortunately for you –

you are the homicide detective also.

There was information about the case that was stated that I had never been told. [Redacted, confidential investigative details].

There is evidence supporting her communication with Grimmert. Both in our text messages as well as other emails she provided. You knew she has been getting information from Grimmert. I gave you all transcripts and communication with Tobiasson in October of 2017. What makes the entire homicide division look suspicious is that you all have this knowledge and yet Grimmert is still on this case. Why?

You have mentioned countless times that homicide is sealed off from all other departments and that only the detectives in homicide have access to the case. She knew all about the case from the first time I met her.

I expressed my concerns countless times about Grimmert. You said you trusted him with your life.



Las Vegas Judge Melanie Andress-Tobiasson

I know you haven't spoken to Melanie. So she got the information from Grimmert or someone is accessing this file and providing it to her. Either way there's a leak. That has hurt this investigation.

You told me and Steve when we met in September that Greg Flores and his female partner signed the search warrant for Frankie and Domo. I know he participated in the search at Frankie's apartment. I have told you since

early on in this investigation that Greg Flores was Frankie's god-father. You told me there was no proof of that. He is.... this has hurt the investigation also.

Some of my actions, efforts and interactions, unbeknownst to me, may have potentially hurt the investigation. Who knows?

[Redacted] You and I both know this. Unfortunately, criminal defense attorneys will have a hay day with this case. I know you are trying to build a solid case against who did this.

You mentioned lies in your email, "pertaining to me." What lies? If errors were made they need to be cleared up. There was nothing negative in that entire article about you.

You said this is all filth. That exactly what this case is. Pure filth.

I have said I do not believe you are corrupt. I believe you want to solve this case. I have also said there is corruption all throughout this case and tied to it. Talk to your partner about that.

I am not mad at you detective. This is none of your doing. I truly am so grateful to you for all you do and continue to do. I am sorry too. Connie Land.

On Monday I left a voicemail message for Det. Dosch. I asked him to comment on what the lies were in my story. I also wanted to know why he was describing the story as "filth."

Dosch responded in a brief voicemail message and stated, "the only thing that I was bent over was the allegation that I was corrupt or dirty, that's what still bothers me."

The *Baltimore Post-Examiner* has never accused Detective Dosch of being corrupt.

The remarks discrediting Dosch's reputation, the remarks to Connie Land about Detective Grimmert, all originated from Judge Tobiasson herself and as you will see from the below text messages Dosch and the LVMPD were made aware of that in October of 2017. It is now February of 2019 what if anything has been done to get to the truth?

Connie Land, the mother of Sydney Land told the *Baltimore Post-Examiner* earlier this month, that Tobiasson asked her to turn over text messages and other records pertaining to Land's contact with homicide detectives and other members of the Las Vegas Metropolitan Police Department to her, because according to Land, Tobiasson claimed the records were being requested by the FBI.

According to Land, through the course of her involvement with Tobiasson, from May thru October of 2017, Tobiasson told Land that her life was in danger, that the police could not be trusted, that she was being followed and that they had to purchase burner phones and use alias' when communicating.

Land told the *Baltimore Post-Examiner* that she believed what Tobiasson was telling her was the truth because of her position as a judge. Tobiasson wanted to know what information she was providing to the police, specifically what Land was talking to LVMPD Homicide Detective Mitchell Dosch about, the detective assigned to her daughter's homicide investigation.

Land told the *Baltimore Post-Examiner* that Tobiasson claimed that LVMPD Detective Jarrod Grimmert, Dosch's partner after the 2016 murders, had provided Tobiasson details about the homicide investigation.

Last year when the *Baltimore Post-Examiner* was in contact with Tobiasson she had written in an email to the *Baltimore Post-Examiner* dated May 13, 2018, that "We know he [Shane Valentine] was involved based on

everything I was told by the original homicide detective, Grimmertt."

When the *Baltimore Post-Examiner* interviewed Tobiasson last year, which was the basis for our January 21 story, Tobiasson commented during our recorded interview with her that the inside information that she had on the Sydney Land/Nehemiah Kauffman double homicide was provided, *"By the detective on the case,"* and *"I find out from the homicide detective."*

Connie Land told the *Baltimore Post-Examiner* that she was interviewed by the Criminal Intelligence Division of the LVMPD and the FBI Las Vegas Division about Tobiasson.

According to Land after Tobiasson's interview aired last April on KLAS-TV, FBI Special Agent Vinitha Pandey asked her to turn the burner phone that she was communicating with Tobiasson on over to the bureau, which she did. The FBI also wanted the phone numbers to Tobiasson and Aryanne Zappia's burner phones, which were provided by Land. More on this in another story.

The following texts messages between Connie Land and Detective Mitch Dosch confirm that the Las Vegas Metropolitan Police Department was aware of Judge Tobiasson's actions since 2017:

Dosch: 6/6/2018 1:10 PM – Unscrupulous behavior by not only the judge...

Dosch: 5/19/2018 5:08 PM – I'm sorry Connie, I couldn't disagree with you more. I am proud to say there is absolutely no corruption with me or my partner or anyone in homicide. I know that with every fiber of my being. The folks in homicide are the only ones involved in this case. If anyone wishes to make an allegation against me they will be proven wrong. [The LVMPD Vice unit was also involved in the case.]

Dosch: 4/20/2018 7:56 AM – In my opinion Melanie has lost her mind. Also, I trust Grimmertt with my life. He is a good and righteous man with the victims best interest at heart.

Land: 4/20/2018 6:32 AM – Melanie told me Grimmertt was providing her the information from the case. She told me the only person I can trust is Grimmertt. The first time I met her she had information I had never heard. I have heard too many things she said about Grimmertt. Someone close to this case continually feeds Melanie what's going on.

Dosch: 4/13/2018 11:01 AM – Of course! If they have information that would be beneficial to solving this case then by all means bring it to me.

Land: 4/13/2018 10:59 AM – Do you want their help with this case?

Dosch: 4/13/2018 10:59 AM – Hopefully the FBI can get whatever they need to help them with their investigation.

Land: 4/13/2018 9:45 AM – They want both me and Ary's phones and asked me to bring them down immediately.

Land: 4/13/2018 9:44 AM – FBI about judge.

Land: 4/13/2018 9:35 AM – I am not sharing this information to cast doubt, but I need you to know the communication and things that Melanie Tobiasson was saying in regard to Detective Grimmertt.

Dosch: 4/13/2018 9:33 AM – I absolutely trust my partner. You can too.

Land: 4/13/2018 9:32 AM – She referenced Grimmertt countless times throughout the six months we were in communication. She said he is the only one I could trust. I am not saying anything one way or the other – but you need to know these things.

SMS Message sent 4/13/2018 9:32:11 AM

she referenced grimmitt countless times throughout the 6 months we were in communication. She said he is the only one I could trust. I am not saying anything one way or the other- but you need to know these things.

SMS Message received from Detective Dosch 4/13/2018 9:32:42 AM

Dosch: 1/8/2018 7:58 PM – What phone carrier did Sydney have? [Over one year after the murders!]

Land: 10/25/2017 7:22 AM – I am sure you hate me detective for what has happened. I believed her because of her story about her daughter. I am truly sorry for what has happened. I didn't know the truth.

Land: 10/25/2017 7:13 AM – I hope you guys nail her ass-get her off the bench and press charges...she is a psychopath and a manipulator.

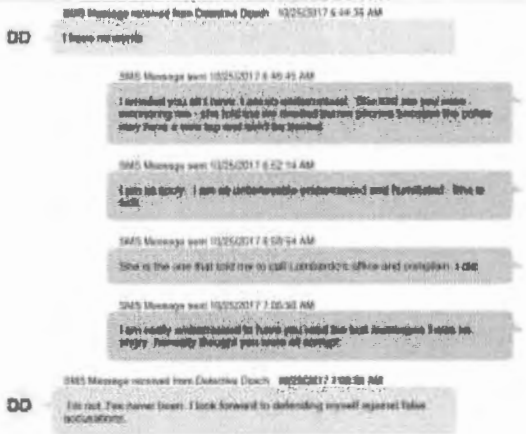
Dosch: 10/25/2017 7:08 AM – I'm not. I've never been. I look forward to defending myself against false accusations.

Land: 10/25/2017 7:05 AM – I am really embarrassed to have you read the text messages. I was so angry. Honestly I thought you were all corrupt.

Land: 10/25/2017 6:58 AM – She is the one who told me to call Lombardo's office and complain. I did.

Land: 10/25/2017 6:52 AM – I am so sorry. I am so embarrassed and humiliated. She is sick.

Land: 10/25/2017 6:46 AM – I emailed you all I have. I am so embarrassed. She told me you were monitoring me – she told me we need burner phones because the police may have a wire tap and can't be trusted.



Dosch: 10/25/2017 6:44 AM – I have no words.

Land: 10/25/2017 6:43 AM – She said from the beginning you have not wanted to investigate this. Grimmitt was very upset when he suggested different things to try – he was taken off the case a month into it. There is so much....

Land: 10/25/2017 6:41 AM – Detective she reached out to me first of May.

Land: 10/25/2017 6:40 AM – No. Melanie told me you were. She told me she has been working with FBI whom she called him her "friend."

Dosch: 10/25/2017 6:36 AM – I understand it is a difficult time. But how do we get to a point where a judge is "investigating" me? Who said I was dirty? Was it you?

Land: 10/25/2017 6:35 AM – I don't either.

Land: 10/25/2017 6:30 AM – I am so sorry. This is Sydney's anniversary and I am dealing with this fucked up mess.

Land: 10/25/2017 6:29 AM – She wanted every communication between us – to not trust you.

Land: 10/25/2017 6:28 AM – Melanie called me about 12:30-1:00 a.m. from her office. She told me she was looking up some things. She said you lived on the same street as Dano something [redacted], I think.

SMS Message sent 10/25/2017 6:28:34 AM

melanie called me about 12:30-1:00 am from her office. She told me she was looking up some things. She said you lived on the same street as Dano- something canyon, I think.

SMS Message sent 10/25/2017 6:29:44 AM

She wanted every communication between us- to not trust you.

SMS Message sent 10/25/2017 6:30:36 AM

I am so sorry. This is the Sydney's anniversary and I am dealing with this fucked up mess.

SMS Message sent 10/25/2017 6:35:56 AM

I don't either..

SMS Message received from Detective Dosch 10/25/2017 6:36:26 AM

DD I understand it is a difficult time. But How do we get to a point where a judge is "investigating" me? This is what I don't understand. Who said I was dirty? Was it u?

Dosch: 10/25/2017 6:26 AM – I am super confused Connie. I have not done anything wrong. I have investigated your daughter's death as hardened as diligently as I have done with other investigations. I am not sure where any of this comes from and why all this is going on.

Dosch: 10/25/2017 6:21 AM – I only interacted with that guy once maybe twice in my career. I don't know him. I still don't know why she is investigating me.

Land: 10/25/2017 6:18 AM – I don't know. She told me your home address you lived on the same street and Dano about 8 years ago.

Dosch: 10/25/2017 6:17 AM – Why is a judge investigating me? I'm confused.

Land: 10/25/2017 6:17 AM – Tobiasson.

Dosh: 10/25/2017 6:16 AM – Who?

Land: 10/25/2017 6:15 AM – Detective – She has been investigating you. She was at her office at 12:30 a.m. looking up information about you.

Land: 10/24/2017 8:17 PM – There are no words I can say....

Land: 10/24/2017 8:16 PM – She asked for any information we have on Sydney to send her. I sent her everything.

Land: 10/24/2017 8:14 PM – Detective, Tobiasson told me she needs all correspondence of my communication with you – emails, text messages, phone calls – I sent them to her.

Land: 10/24/2017 7:42 PM – Detective it is very important I speak with you.

Text messages between Tobiasson and Land confirm Tobiasson wanted the information:

Tobiasson: 10/23/2017 7:54 AM – Perhaps we should not reference what he does in texts.

Land: 10/23/2017 7:41 AM – What did your FBI friend say when you told him...

Land: 10/20/2017 10:58 AM – I'm sending over phone records. The only problem with these, if he has called sometimes it shows up on my phone as no caller ID.

Land: 10/20/2017 10:55 AM – It is all my actual texts with him.

Tobiasson: 10/20/2017 10:54 AM – I have the records of the texts. I would like the content.

Land: 10/20/2017 8:05 AM – I emailed it all to you this weekend. I will resend everything I have.

Tobiasson: 10/20/2017 7:45 AM – Do you have the content of the texts between you and Dosch?

Tobiasson: 10/20/2017 7:39 AM – I don't know if I have the texts.

Land: 10/20/2017 7:27 AM – I have sent all texts with Dosch. I haven't texted Grimmert. I've only sent a few emails. I will print up my phone records today and send over to you.

Tobiasson: 10/20/2017 7:06 AM – I have a plan. I need everything you have. Emails.

Tobiasson: 10/20/2017 7:06 AM – I haven't heard much today. We kind of just have to sit tight right now.

Tobiasson: 10/20/2017 7:05 AM – Do you have the content of your texts between you and Dosch.

Land: 10/14/2017 9:31 PM – I have emailed you all the text messages with Dosch. Does not include photos. Texts with [LVMPD Vice Det. Greg] Flores. Syd's data talk and text messages.

Tobiasson: 10/14/2017 3:55 PM – You have no reason to feel like an idiot. They are corrupt assholes. It wouldn't have mattered how you treated them.

Land: 10/14/2017 10:22 AM – I will send you whatever you like.

Tobiasson: 10/1/2017 6:35 PM – FBI agent called at the same time.

Tobiasson: 5/13/2017 8:53 PM – I want to hear everything. Dosch apparently sucks.

Grimmett is mentioned in text messages from Tobiasson to Land:

Tobiasson: 7/22/2017 8:59 PM – I haven't heard anything. I'm in Malibu til next Friday. I will reach out to Grimmert when I get back.

Tobiasson: 5/13/2017 1:42 PM – Haven't heard from Grimmert but my other friend is in DC and promised he would call me first thing Monday morning.

Text messages confirm Tobiasson told Land not to trust the police:

Tobiasson: 8/27/2017 4:34 PM – My guess they aren't working on shit.

Tobiasson: 10/18/2017 3:32 PM – We might need to get other ones. They might be able to trace them to the card.

Tobiasson: 10/18/2017 3:31 PM – I'll call you in an hour. What did you use to buy these phones?

Land: 10/18/2017 3:31 PM – My card at Target. Debit card.

Tobiasson: 10/1/2017 11:05 PM – They are watching you like a hawk. We need to get different phones tomorrow.

The Las Vegas Review-Journal reported in February of 2017 Tobiasson was fined \$1,000 and publicly reprimanded after a judicial disciplinary panel found "clear and convincing evidence" that she violated professional ethics codes.

Tobiasson stated in an emailed memo to the *Baltimore Post-Examiner* last year that she had told a Las Vegas attorney that she was talking to the FBI.

Excerpts from that memo dated May 13, 2018 are as follows:

"One of the things I had said in Jess Marchese's office when I met with one of his clients, who though a really bad guy on paper, is actually a far better human than any of the people involved in these stories, was that I was going to write up the entire story and send it to every news agency in the country. That same week FBI agent is asked about

his relationship with me and told not to speak to me as I was a problem for Metro, and they were concerned that I was going to go public with my story.

The only other person I said that to besides the agent was Jess Marchese. He [FBI agent] was told not to have any further communication with me. He also was questioned about his relationship with Aryanne Zappia and why he was speaking to her. It was only after they learned that Aryanne, Connie, and I were all communicating, compliments of Jess Marchese I now believe, that Metro and the FBI blew a gasket. I met with Jess and his client on Sunday, October 22nd.

Jess Marchese also knew that I was talking to the FBI agent and Aryanne on burner phones and after the Channel 8 story ran [April 2018], I learned that Lombardo was using my possession of burner phones as validation that I was somehow involved in drug trafficking. First burner phone I owned was purchased by Connie Land at Target. She bought one for me, one for herself and one for Aryanne. I had a separate one for the agent.

Jess Marchese is friends with [LVMPD officer Albert] Beas. Around the time of the meeting with Jess, Beas showed up twice at my office in one day and his brother [also an LVMPD officer] called me that afternoon."

Tobiasson sent the following text message to Land:

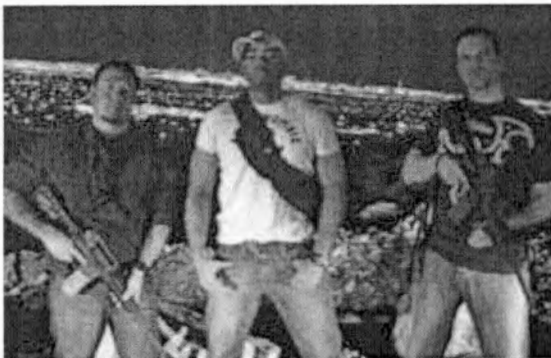
SMS Message received from Master Of Puppets Melanie Tobiasson 10/18/2017
2:51:57 PM

MT

I'll call you in a bit. Guess who showed up at my office twice today. Al beaz

Tobiasson: 10/18/2017 2:51 PM – I will call you in a bit.
Guess who showed up in my office twice today. **Al Beas.**

SMS Message sent 10/18/2017 2:52:50 PM



Al-Beas-Chris-Baughman-William-Trey-Gethofer-III.

No charges against LVMPD in FBI corruption probe

Sources said allegations against former LVMPD Vice Detective Albert Beas were raised after he was accused of having sexual relationships with prostitutes and having been on the payroll of suspected Las Vegas prostitution kingpin, Jamal "Mally Mall" Rashid. Rashid's Las Vegas home and offices were raided by the FBI back in 2014, as part of a federal corruption probe that includes some current and former members of the LVMPD. According to sources Beas was given a 40-hour suspension and was demoted to a patrol officer. No LVMPD officer has yet to be charged in the corruption probe.

On Wednesday the *Baltimore Post-Examiner* contacted Las Vegas attorney, Jess Marchese who knows Beas.

Marchese said: "Some is true, some is not true. I know Al Beas. I don't know anything about her and the FBI, you would have to ask her about that. Some is correct, some is incorrect. I don't remember, obviously she had her issues with the LVMPD, I think she made comments like that before, whether she made it in my office, I honestly don't know. We're talking a while ago if I remember correctly. I don't know who dined who out. When I talk to Al we talk Yankee's baseball. I know a little about it, I don't know your exact story, I can tell you this that she knows a hell of a lot more than I do about any of this, I mean, because obviously it's personal with her daughter and what happened or didn't happen there. My opinion on Melanie, she's a good person, we all make mistakes, maybe she's making a mistake here, maybe she isn't. Everything comes from a good place with her. Whether she likes me or not, it is what it is. I have no ill will against her. She's a good person, I like her."

Questions continue

Questions are still unanswered. Why was Tobiasson so concerned what Connie Land and Dosch were communicating about?

Why was Tobiasson even meddling into a double homicide investigation that had nothing to do with her?

Does it have anything to do with her daughter's involvement with Shane Valentine, a person of interest in the Sydney Land/Nehemiah Kauffman murders?

Has the Las Vegas Metropolitan Police Department conducted an internal investigation to determine who was leaking information to the judge?

Tobiasson, a sitting judge reached out to Connie Land, a grieving mother whose daughter was brutally murdered and used her position as a judge to influence Land into believing that she couldn't trust Dosch and others for reasons yet unknown.

Tobiasson told Land that the FBI was investigating her daughter's murder, which was not true. What was Tobiasson's endgame?

Connie Land filed a complaint with the court about Tobiasson in December. Will there be a judicial review of Tobiasson's behavior?

Stay tuned for more LVMPD and FBI texts that will be published as this story develops as well as information that has not been released to the public about the double murder.

As usual, both the FBI and LVMPD have refused to comment on the record to the *Baltimore Post-Examiner*.



Las Vegas Judge Melanie Andress-Tobiasson says she threatened suspect in unsolved murders then kicked in his door



LAS VEGAS

— Las Vegas Township Judge Melanie Andress-Tobiasson told the *Baltimore Post-*

Examiner she threatened Shane Valentine, a Las Vegas pimp who is a suspect in the 2016 unsolved double homicide of Sydney Land and Nehemiah "Neo" Kauffman and "kicked in his door."

The interview was part of an extensive recorded-interview she gave to the *Baltimore Post-Examiner* last year. The judge is no longer talking to this news organization.

On January 21 the *Baltimore Post-Examiner* published, '[Judge claims FBI refused information on police corruption probe after pressure from LVMPD](http://baltimorepostexaminer.com/judge-claims-fbi-refused-information-on-police-corruption-probe-after-pressure-from-lvmpd/) (<http://baltimorepostexaminer.com/judge-claims-fbi-refused-information-on-police-corruption-probe-after-pressure-from-lvmpd/2019/01/21>)..'

In that article and subsequent follow-up stories, Tobiasson:

*Stated she allowed her then underage daughter Sara to hang out then work in an after-hours strip club run by and frequented by Las Vegas pimps, underage high school girls and off duty police officers.

*Accused several people of committing the Land/Kauffman murders.

*Said she was receiving confidential information about the homicide investigation from a Las Vegas Metropolitan Police Department (LVMPD) detective who originally was assigned to the case.

*Stated that Shane Valentine had attempted to recruit her daughter, Sara, as an underage prostitute while she was still attending Bishop Gorman High School.

*Stated that one of her daughter's friends, who was a sophomore at the time also at Bishop Gorman High School, and whose father was a LVMPD police officer, was a prostitute for Shane Valentine.

*Stated that another Las Vegas Township judge's daughter was also a prostitute for another pimp.

*Accused several LVMPD officers of being corrupt.

*Asked Connie Land, the mother of Sydney Land, one of the victims in the murders, to turn over to her all text messages and other records pertaining to Land's contact with the lead homicide detective investigating her daughter's death.

* Told Connie Land that the FBI was investigating her daughter's murder when in fact that was not true.

In our February 18 article, "[Exclusive: Witness claims Las Vegas Township Judge Melanie Andress-Tobiasson offered her a bribe to implicate 'innocent man' in \(http://baltimorepostexaminer.com/exclusive-witness-claims-las-vegas-judge-melanie-andress-tobiasson-offered-her-a-bribe-to-implicate-innocent-man-in-unsolved-murder-case/2019/02/18\)](http://baltimorepostexaminer.com/exclusive-witness-claims-las-vegas-judge-melanie-andress-tobiasson-offered-her-a-bribe-to-implicate-innocent-man-in-unsolved-murder-case/2019/02/18) unsolved murder case," Aryanne Zappia claimed that Tobiasson offered her a bribe to implicate Shane Valentine in the Land/Kauffman murders. Zappia said that she was interviewed by LVMPD Criminal Intelligence Bureau detectives, that she passed a polygraph examination, and was also interviewed by the FBI.

Tobiasson says she threatened Shane Valentine and kicked in his door

Here are some excerpts from last year's interview with the judge or you can listen to the audio below:

Tobiasson: "You know, but uh I contacted his attorney because it was now going on a year that I had been calling Vice and that they had done zero. Absolutely nothing."

"So I contact Shane Valentine's attorney, it's about July now of 2016 and because I know the cops at this point aren't going to do anything. I call his attorney and I said, 'hey you might want to get your client a message that, if he calls my daughter again I'm going to take care of it myself.'

So, he does, he gives him the message.

BPE: Are you married to a Metro cop?

Tobiasson: He's retired, and no, he didn't help me.

BPE: He's not helping you?

Tobiasson: He hasn't helped me through any of this. I was the one who went to Shane Valentine's house, kicked in the door.

(Tobiasson admits LVMPD Detective was providing information to her.)

"We know he was involved based on everything I was told by the original homicide detective, Grimmitt."

"The first detective who is investigating the case, thank God is someone who knows me and respects me, and I have a good relationship with, he tells me for the first three or four weeks after the murders while Shane is on the run, what information they have and what proof they have..."

"I told you about the detective that was originally on the case, he told me all the evidence they had that showed it was..."

"I'm advised of this by the detective working on this case that they have this information."

"So Shane gets arrested in California, he gets extradited back to Vegas and he gets charged with the drive-by shooting and I find out from the homicide detective..."

"Then there's a lieutenant who tells me that they believe he's good for six hundred burglaries during that time frame where he was out on bail. That lieutenant was, it was actually a captain, I'm sorry, Captain Raybuck, Todd Raybuck, OK. He was a lieutenant when I knew him and was promoted to captain."



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Tobiasson Contacts Valentines Attorney

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Tobiasson, I Was The One Kicked In The Door

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On Friday the *Baltimore Post-Examiner* reached out to the LVMPD Homicide Division concerning a statement made to the *BPE* during Tobiasson's recorded interview last year that led us to believe that Tobiasson may have withheld pertinent information about the Land/Kauffman murders from the police.

Under the police department's policy, the Homicide Division is not allowed to comment on an investigation.

Questions remain

Why was the LVMPD providing confidential information relating to the double homicide of Sydney Land and Nehemiah Kauffman to Tobiasson?

What was it that Tobiasson wanted to know?

Is there more to her daughter's involvement with Shane Valentine than Tobiasson had stated?

Why hasn't anyone been held accountable for their misconduct?

How can a sitting judge continue to be on the bench after her questionable behavior?

Stay tuned to the *Baltimore Post-Examiner* for more revelations concerning this very troubling and disturbing case.

18
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Las Vegas judge's statement to judicial investigator about KLAS-TV interview conflicts with statement made to the Baltimore Post-Examiner



LAS VEGAS

— A statement made by Las Vegas Township Judge Judge Melanie Andress-Tobiasson during a September 2018 interview with an investigator for the

Nevada Commission on Judicial Discipline conflicts with what she told the *Baltimore Post-Examiner* last May.

According to documents obtained by the *Baltimore Post-Examiner* on June 19, 2018, at the request of Paul C. Deyhle, General Counsel and Executive Director for the Nevada Commission on Judicial Discipline (NCJD), an investigation was conducted into allegations of misconduct by Las Vegas Justice of the Peace Melanie Andress-Tobiasson.

Spencer Investigations LLC, a Reno, Nevada based investigative agency was contracted by the NCJD to conduct the investigation.

The investigation stemmed from a KLAS-TV News 8 I-Team interview with Tobiasson that aired on April 12, 2018.

The focus of the investigation was to ascertain if Tobiasson used her position on the bench to solicit the assistance of the Las Vegas Metropolitan Police Department to intervene in a possible prostitution ring that she feared her teenage daughter had possibly become involved in. In addition, Tobiasson presided in a domestic violence case involving one of the alleged principals in the prostitution ring, that according to Tobiasson was attempting to recruit her daughter into prostitution.

The NCJD investigation was limited to only the previously described activities.

In a September 10, 2018 transcript of a recorded telephone interview obtained by *the Baltimore Post-Examiner* between Judge Tobiasson and Investigator Bob Schmidt of Spencer Investigations, the subject of the News 8 I-Team interview was addressed.

Excerpts from that interview are as follows:

Tobiasson: The only other thing with regard to that interview, I was seeking the advice of an attorney. I WAS with my attorney. It was at my attorney's advice and guidance that I recorded the story. The intention was that the story was not to be aired. That video was never intended for public consumption. It was an opportunity where I sat in my attorney's office and told the story from beginning to end on tape so that it would be memorialized in the event I wasn't able to tell it at some point. And that was with my attorney present and with my attorney's guidance.

Schmidt: OK. So if that was the case, if it was never to be aired unless something happened, did you have prior knowledge before it was actually aired on –

Tobiasson: I had prior knowledge that they were going to do a story based on another case that had been negotiated that involved a girl who was also somewhat involved in the double homicide. [The unsolved October 2016 double homicide of Sydney Land and Nehemiah Kauffman]. So, yes, I was aware that they were going to do a story because that particular case was directly linked to the double homicide and all the people involved in that double homicide.

Schmidt: OK.

Tobiasson: The – the case that was involved that caused them to ultimately do the story and use clips from that tape was oh, sorry. His name's Frost, but it's – no, it's – hold on. I'll get you the name. Give me just a minute. Anthony Galasi, G-a- l-a-s-i. The victim in Anthony Galasi's case is the sister of one of the suspects in the double homicide.

Schmidt: OK.

Tobiasson: And when they contacted me to tell me they were going to do the story, I had said to them this wasn't recorded in order to use it. And I was not – I wasn't real happy about it.

Schmidt: How much notice did they give you before the thing was actually on the news?

Tobiasson: About a day. And I did not have a chance to preview it or anything else.

Schmidt: So you got to watch it when everybody else did?

Tobiasson: Yep.

Spencer Investigations interview with Tobiasson occurred on September 10, 2018.

On May 7, 2018, less than one month after the KLAS-TV 8 News Now I-Team interview aired, the *Baltimore Post-Examiner* conducted a recorded interview with Tobiasson, which was the basis for the January 21, 2019 story, **"Judge claims FBI refused information on police corruption probe after pressure from LVMPD (http://baltimorepostexaminer.com/judge-claims-fbi-refused-information-on-police-corruption-probe-after-pressure-from-lvmpd/2019/01/21)."**

Excerpts from that story concerning the I-Team interview:

BPE: I saw the interview that you did with Channel 8 I-Team. Is everything that's on that interview is what you told them or was that an edited version of your interview?

Tobiasson: Oh, no, that interview, that tape was never intended to go public. I made that tape to, in the event that I was dead and couldn't tell my story. My attorney wanted me to videotape my story, it's about four hours, maybe five,

in the event that someday I needed it for my protection or in the event that I wasn't around to tell the story. That's how concerned they are for me. Then what happens after the, so Lombardo, and I didn't find out about it until after the story aired, talking to my attorney suggesting that I'm involved in criminal activity and suggesting that they're going to file charges against me, and my attorney tells me that I think we need to do this story. He doesn't tell me why, he says I think we need to air the story. I said, I agree. I said I don't know what we're waiting for, let's do it, I wanted to do it six months ago. So, they aired the story.

(The Baltimore Post-Examiner was told by a source that Tobiasson filed formal statements accusing KLAS-TV of misleading her because she supposedly never intended to appear on camera or on the air.)

After the *Baltimore Post-Examiner* published our January 21 story on Tobiasson's interview, Tobiasson sent the following emails to me:

Tobiasson: There are certain parts of this that are going to ruin me. I never anticipated you would just put the entire conversation in the article. I'm mortified. I already have a discipline complaint. Can you delete the parts about me contacting his attorney please?

BPE: I told you I was transcribing the interview. What part are you talking about with the attorney? I don't understand. What did you think this was going to be? I told you I was doing the story. You said you wanted to get this out.

Tobiasson: Contacting Shane's attorney.

Tobiasson: You told me you were transcribing it. Not that you were just going to print the entire thing. I'm toast. I gave you information that was never meant to be made public. I'm ruined. And nothing will ever happen to these people. Judicial discipline will use this to remove me from the bench and if my daughter sees this she will certainly never speak to me again.

In April of 2018 Tobiasson sent the following text message to a retired Las Vegas Metropolitan Police Department detective that was obtained by the *Baltimore Post-Examiner*:

My story and the information I have gathered has the potential to take down the entire legal and law enforcement community in Las Vegas. I would like to get it out there ASAP. If I had realized that this would never happen in the time frame they said it would in terms of indictments, I would have done this immediately after I was outed to Metro about my contact with the FBI. As a courtesy to their investigation, I did not go with my original plan which was to write it all out and send it to every news agency in the country. I believe that I need to make an official report ASAP. Should have already done it. Don't have the first clue as to how.

The *Baltimore Post-Examiner* got her story out on January 21, 2019.

The Nevada Commission on Judicial Discipline's investigation into misconduct allegations against Judge Tobiasson that was described in this article is currently on hold. Tobiasson's attorney filed a stay, which was granted by the Nevada Supreme Court and the NCJD cannot proceed until the Court rules on that.

Connie Land, the mother of Sydney Land, one of the victims in the 2016 unsolved double homicide, filed a complaint against Judge Tobiasson with the NCJD in December of 2018, in a separate matter.

Why is the Las Vegas media silent on Judge Melanie Andress-Tobiasson?



LAS VEGAS — Las Vegas Township Judge Melanie Andress-Tobiasson's future rests with the Nevada Commission on Judicial Discipline.

The court has scheduled oral arguments on April 2, 2019 at 10 a.m. to determine if the judge should answer questions before a formal statement of charges is issued,

which could be used to discipline or remove her from the bench.

But if you are watching or reading the local press, you probably wouldn't even know why she is in trouble.

To catch up you might want to read the March story, ["Las Vegas judge's statement to judicial investigator about KLAS-TV interview conflicts with statement made to the Baltimore Post-Examiner \(https://baltimorepostexaminer.com/las-vegas-judges-statement-to-judicial-investigator-about-klas-tv-interview-conflicts-with-statement-made-to-the-baltimore-post-examiner/2019/03/01\) "](https://baltimorepostexaminer.com/las-vegas-judges-statement-to-judicial-investigator-about-klas-tv-interview-conflicts-with-statement-made-to-the-baltimore-post-examiner/2019/03/01/) or this February story [Las Vegas Judge Melanie Andress Tobiasson says she threatened suspect in unsolved murders then kicked in his door. \(https://baltimorepostexaminer.com/las-vegas-judge-melanie-andress-tobiasson-says-she-threatened-suspect-in-unsolved-murders-then-kicked-in-his-door/2019/02/26\)](https://baltimorepostexaminer.com/las-vegas-judge-melanie-andress-tobiasson-says-she-threatened-suspect-in-unsolved-murders-then-kicked-in-his-door/2019/02/26/)

And there are plenty of more stories regarding the troubled judge that we published. It's a funny thing – the local press is not interested in these stories but apparently, the commission is very interested. The commission has requested all the stories as well as audio recordings that we published.

But strangely the local press is not interested in the trials and tribulations of the embattled judge. The press briefly flirted with the idea of doing real journalism last April when KLAS-TV's I-Team led by George Knapp aired portions of an interview with Tobiasson.



Then Tobiasson complained about KLAS and the coverage stopped. Dead silence.

And it's radio silence in the local newspapers as well. How embarrassing will it be when this story breaks on national

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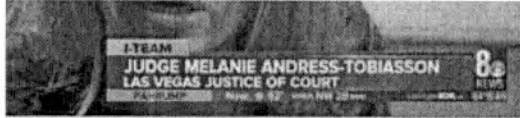
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television some day. When that happens someone should lose their job.

Whether or not you believe anything Tobiasson has said, it is still newsworthy, and it is the responsibility of any news organization to report the news to the community it serves instead of being a public relations machine for tourism.

Since that interview aired locally in Las Vegas last April, the *Baltimore Post-Examiner* has published several stories concerning Tobiasson that are most definitely worthy of local reporting – that the rest of the media has ignored.

Here's a sampling of real news reported by the *Baltimore Post-Examiner* and the follow-up coverage by the local press:

A witness claimed Tobiasson offered her a bribe to implicate Shane Valentine in the unsolved 2016 murders of Sydney Land and Nehemiah Kauffman.

The Las Vegas media has no interest.

Tobiasson told the *Baltimore Post-Examiner* during our recorded interview with her in May of 2018 that she threatened Shane Valentine through his attorney and then kicked in the door to his residence.

The Las Vegas media has no interest.

Tobiasson admitted multiple times to the *Baltimore Post-Examiner* that she was receiving confidential information about the Land/Kauffman murders from the original homicide detective in the case, LVMPD Detective Jarrod Grimmatt. That homicide detective is still on the force after leaking information about the case. What other cases does he leak information about?

The Las Vegas media has no interest.

The *Baltimore Post-Examiner* reported in several stories and published text messages that confirmed Tobiasson had told Connie Land, the mother of Sydney Land, to turn over all text messages between LVMPD Homicide Detective Mitchell Dosch, the lead detective in her daughter's case, to her under the false pretense that the FBI was investigating the death of her daughter.

The Las Vegas media has no interest.

Readers of those stories, many who are Las Vegas residents have consistently asked why it is that they have to rely on an online newspaper that originates from Baltimore, Maryland to find anything on the 2017 Las Vegas Massacre, Las Vegas police corruption, and more recent stories on the plight of Tobiasson.

That question I can't answer. Those questions should be directed to the Las Vegas media outlets.

Tobiasson has accused Las Vegas Metropolitan Police Department vice detectives of failing to investigate her claims of after-hours unlicensed clubs that were being run by local pimps. She said that the information she was providing to the police was never followed-up on. Those clubs she alleged, were promoting prostitution and targeting underage girls, with the clubs frequented by off-duty LVMPD officers.

What was even more shocking was Tobiasson's admission that she allowed her underage daughter, Sarah, to not only hang-out at those clubs but later gave her daughter permission to go work in one. Totally irresponsible behavior by any parent, let alone a mother who is a sitting judge. By doing so she placed her daughter's safety in jeopardy

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notwithstanding the fact that she was contributing to the delinquency of a minor, by allowing her daughter to associate with known criminals.

Tobiasson claimed she was fearful for her and her daughter's safety, not from the pimps, but from the vice detectives.

If Tobiasson was trying to protect her daughter from being recruited in sex-trafficking by pimps, and she was worried about her daughter's safety, then why did she allow her underage daughter to associate with those same criminals?

It makes no sense.

And why didn't those vice detectives that Tobiasson was providing information to, shut down those unlicensed clubs?

The only answer to that question is one-word— corruption.

Allegations of some of the LVMPD's vice detectives being corrupt, on the payroll of a local prostitution kingpin, and targeting rival pimps for their "new boss" surfaced when reports of a now five-year-old FBI federal corruption probe of the LVMPD was made public by Clark County Sheriff Joe Lombardo more than two years ago.

What is going on with that probe?

To this date, no member of the LVMPD has been charged, even though affidavits from several people allege there were payoffs to former and current members of the LVMPD.

Because of those allegations and other claims that a Clark County assistant district attorney coerced witnesses in the rival pimps cases, are leading to some very bad sex-traffickers being released from prison in the near future.

Clark County District Attorney Steve Wolfson and Lombardo also took measures to ensure that further corruption would not be divulged in court testimony. They did it by cutting early release plea deals to convicted sex-traffickers who may have talked if they took the stand.

This all happened under the blind and shameful Las Vegas media.

As one Las Vegas media person told me just a few weeks ago they "will not promote stories that bring disrepute to the city."

That says a lot.

And, of course, this was evident in the Las Vegas Massacre investigation when the *Baltimore Post-Examiner* was the only media outlet challenging Lombardo's lies.

The Las Vegas media dropped the ball time and again, maybe in the interest of tourism and failed consistently by having their own "reporters" challenge the sheriff's lies and inconsistencies, which was discerning to many *Baltimore Post-Examiner* readers.

The underage daughters of cops, judges and even an FBI agent's daughter being recruited by local pimps, also appears to be no longer worthy of scrutiny by the Las Vegas media.

And where does the U.S. Attorney for the District of Nevada and the FBI Las Vegas Division stand in all of this corruption?

They stand behind "no comment."

Maybe there is no longer a federal case, or it could be that it's one hell of a major RICO/Organized Crime investigation for going on this long. Who knows at this point?

The sad part of all of this is the cops who should be under investigation are no longer employed, and some are retired, but some are still wearing a badge and working the streets of Clark County. So their crimes go unpunished and citizens of Clark County pay their salary and or retirement benefits.

That just does not sit right with a lot of people including current and former members of the LVMPD who have spoken to the *Baltimore Post-Examiner*.

When a cop disgraces the badge and turns to the other side, they are no longer cops, but criminals carrying a badge, or simply put, scumbags, just like the criminals they protect.

Police corruption exists because other cops, regardless of rank, allow it to spread like cancer because they remain silent.

Administrators cover up corruption and misconduct to protect the image of their departments and in doing so, condone the behavior, disgrace the badge, and destroy their own integrity and honor, if they ever had it at all.

And yes, that goes for the certain officers and those in leadership at the Las Vegas Metropolitan Police Department as well.

Tobiasson claimed that she was providing information to FBI Special Agent Kevin White about police corruption. I cannot corroborate that, but what I can say is that the *Baltimore Post-Examiner* knows for a fact that several other individuals, civilians, and police officers, also spoke to White and he was interested in police corruption.

One retired LVMPD officer said White asked him if he knew about the casino industry facilitating sex-trafficking.

Are they really going to open up that can of worms?

With all the corruption and misconduct that has been going on for decades in Las Vegas, I would really be impressed if such an investigation would ever take place.

Tobiasson said that White told her that he could not trust the agents at the FBI Las Vegas Division. She also said she learned that LVMPD Assistant Sheriff Todd Fasulo in 2017 told White's boss, then Assistant Special Agent-in-Charge, Patrick Brodsky, to have him stop talking to Tobiasson.

Tobiasson said White claimed that Brodsky told him to stop talking to her.

That statement alone should have been plastered throughout the Vegas media, but once again — dead silence.

Fasulo, when contacted by the *Baltimore Post-Examiner* stated that we were "going down the rabbit hole" and had no further comment. Brodsky did not return our calls.

Not to make anything out of this, but Fasulo retired in 2017 and went to work for Wynn Resorts in Las Vegas. Brodsky retired in 2018 and take a guess where he went to work? You guessed it, Wynn Resorts.

If true, then the integrity of the FBI Las Vegas Division was compromised by the LVMPD and that is more than troubling.

An FBI agent can't trust his own people, worse than troubling, it's dangerous.

Does the LVMPD have something on the FBI that the third highest police official can simply make a request to the second in command of the local FBI office and have an agent stopped from talking to a judge about corruption?

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Did Brodsky's boss, Special Agent-in-Charge Aaron Rouse, know about what White claimed to Tobiasson about Fasulo and Brodsky?

Because of secrecy and "no comment" policies we may never know the truth.

Tobiasson did some things right in exposing what she believed to be police corruption.

But Tobiasson did many more things wrong.

Tobiasson is a sitting judge who took an oath to uphold the law.

By her own admission, she told the *Baltimore Post-Examiner* that she threatened a suspect in a double homicide and kicked in the door to his residence.

Tobiasson used her position as a judge to influence Connie Land, the grieving mother whose daughter was murdered. She used her position as a judge to obtain information from a detective involved in the murder investigation, that never would have been disseminated to a private citizen.

She poisoned Land's mind by accusing the lead detective investigating her daughter's murder of being corrupt when there was no basis in fact for that assertion.

Tobiasson's motive for inserting herself into a double homicide investigation that she had no business in meddling into remains unclear.

At the very least, it most likely has to do with her own daughter's involvement with certain persons that may have been involved in the murders in one aspect or another.

Remember, Tobiasson was on the record with the *Baltimore Post-Examiner* when she accused three people of executing Sydney Land and Nehemiah Kauffman.

As far as Tobiasson telling Land that the FBI was investigating the murders.

The *Baltimore Post-Examiner* has obtained a text message that was sent to Land on January 16, 2019 from Richard C. A. Smith, Special Agent – FBI Las Vegas. You be the judge if Tobiasson told Land the truth.

Ms. Land,

Good morning and happy New Year. I just wanted to confirm receipt of both email and the text messages you sent. As previously discussed I am receiving these messages and documenting them without a current known federal investigative nexus. As previously advised please make sure any criminal allegations involving state statutes, or information on past, ongoing or potential future LVMPD investigations be relayed to your LVMPD contact. Lastly, as I expressed the last time we spoke, I as an FBI agent, or even as a father, will never advise you one way or another on how best to proceed in your personal efforts to resolve and assist local law enforcement in resolving your daughters homicide. It is unfortunate that as law enforcement officials we do not have an all-powerful way to resolve life's worst tragedies. Victims of unresolved violent crimes across the country suffer with you, as do the officers, detectives and agents who have spent years working those cases without closure or resolution. I continue to wish you and yours nothing but the best.

Sincerely,
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Richard C. A. Smith

While the local media will likely continue to ignore Tobiasson, the *Baltimore Post-Examiner* will be publishing more explosive stories on the judge. But we don't plan to stop there. Stay tuned for the motives behind the unsolved 2016 Land/Kaufman murders, more police corruption, and updates on the mediation process in the civil cases against MGM Resorts International relating to the October 1, 2017 Las Vegas Massacre.

All this news is worth reporting. As one Las Vegas reader put it, if you

Special Agent - FBI Las Vegas

want to know what's going on in Vegas, you have to go to Baltimore.

Oh, by the way here's the new slogan for the Las Vegas media to promote since they are party to it; What goes on in Vegas, gets covered-up in Vegas. That's kind of catchy. What do you think George Knapp? Do you like it?

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Las Vegas Metro Police Officer Dano Giersdorf disputes Judge Melanie Andress-Tobiasson's accusations



LAS VEGAS — Earlier this year the *Baltimore Post-Examiner* received the following email from retired Las Vegas Metropolitan Police Department (LVMPD) Officer Daniel "Dano" Giersdorf: My name is Dano, I'm the retired police officer from the LVMPD. I would like you to feel free to contact me about your article and the false statements that Melanie Andress-Tobiasson has made about me. I spoke to

News8 in Las Vegas about this already extensively. Melanie has me seriously confused with I don't know who on the department but has been throwing my name out to the papers right and left. She has said some very salacious statements about me, which none of her accusations are remotely true.

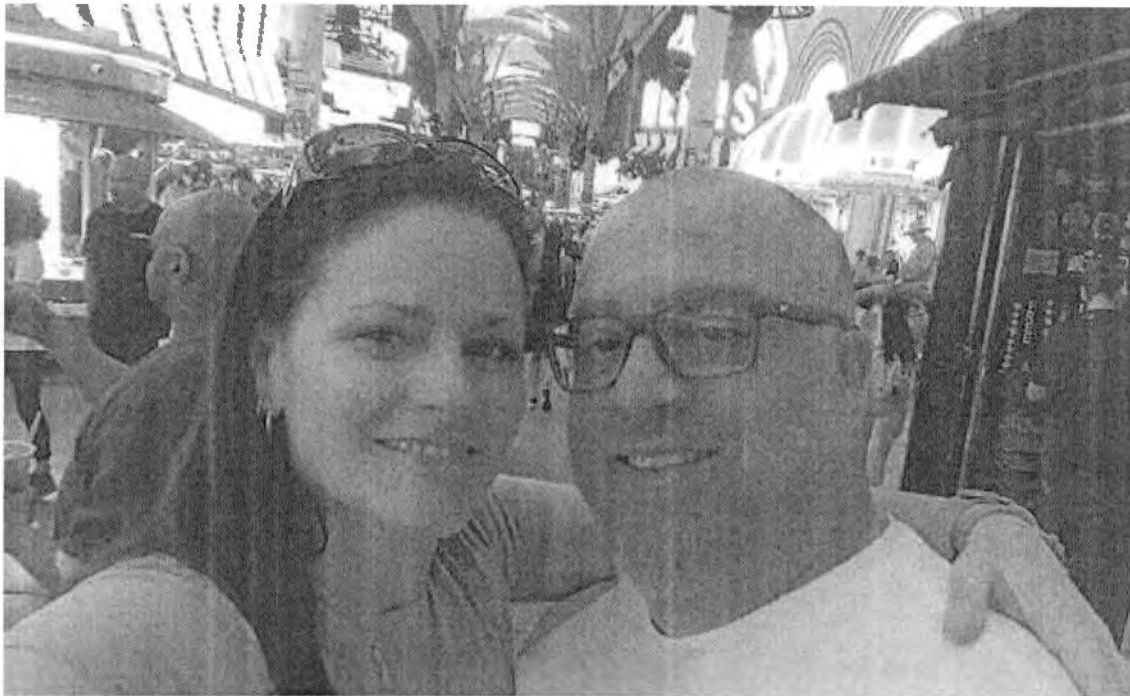
The *Baltimore Post-Examiner* conducted an on-the-record recorded interview with Dano Giersdorf this year. The interview was not published immediately because the *Baltimore Post-Examiner* was still investigating allegations and gathering documentation regarding comments made by Giersdorf and others.

Before we get to excerpts from that interview, to put things into perspective let's revisit the following prior published content:

On January 21, 2019, the *Baltimore Post-Examiner* published, '[Judge claims FBI refused information on police corruption probe after pressure from LVMPD.](#)'

Dano Geirdorf and his wife Desirae (Facebook 2017)

That was the first article in which we reported that Las Vegas Township Justice Court Judge Melanie Andress-Tobiasson had told the *Baltimore Post-Examiner* in our on-the-record recorded interview with her in May of 2018 that Shane Valentine, Dominique "Domo" Thompson and Frankie Zappia, the step-daughter of now-retired LVMPD Police



Officer Daniel "Dano" Giersdorf, had executed Sydney Land and Nehemiah "Neo" Kauffman on October 26, 2016 at 12:30 a.m.

Tobiasson claimed that the police had provided information to her about the double homicide and had evidence in their possession indicating that Valentine, Thompson, and Zappia were responsible for

the double homicide.

Frankie Zappia has denied the allegations.



Talyn, Frankie and Aryanne Zappia (Facebook April 2016)

Tobiasson claimed that LVMPD Vice Detective Greg Flores, investigated the vice angle to the murders and that Flores has known Dano Giersdorf since before they both moved to Las Vegas and became police officers. Tobiasson claimed Flores was god-father to Giersdorf's other step-daughter, Aryanne Zappia.

Tobiasson has described Greg Flores as "one of the most corrupt individuals I have ever had the displeasure of learning about," however she provided no evidence to the *Baltimore Post-Examiner* to support her claim.

The *Baltimore Post-Examiner* reached out to Flores and requested a comment. Flores said he would be more than willing to discuss Tobiasson's claims however police policy forbids him from commenting to the press.

Tobiasson also claimed that Homicide Detective Mitchell Dosch who is investigating the Land/Kauffman murders, "lives on the same street as Dano Giersdorf. Do you know why? Because he and Dano Giersdorf have been friends for 30 years and bought houses together on the same street. You know how I know this? Because Dano Giersdorf's other step-daughter told me this."

The *Baltimore Post-Examiner* has previously reported that Tobiasson's claims about Dosch were factually incorrect.



LVMPD Det. Mitchell Dosch (Screenshot)

On February 18, 2019 the *Baltimore Post-Examiner* published, **'EXCLUSIVE: Witness claims Las Vegas Judge Melanie Andress-Tobiasson offered her a bribe to implicate 'innocent man' in unsolved murder case.'**

In that article the *Baltimore Post-Examiner* published the following excerpts that were obtained during our on-the-record recorded interview with Aryanne Zappia:

Zappia: I want to clear a couple of things up that was said in your original story. I have never told Melanie, Judge Tobiasson, I have never told her that my stepdad Dano Giersdorf and Detective Dosch knew each other or that there was any relation. In fact, I have actually told her my stepdad and Dosch never had a relationship, they don't know each other. The extent of their relationship or knowledge of each other would have simply been because they both work for Metro, and that's not me defending anyone or attempting to discredit anyone, but the truth is my step-dad does not know Dosch. So that was one thing that I wanted to clear up because the story indicated that I had specifically told her that, and I never did.

BPE: Tell me who your dad is, what his name is?

Zappia: He is my stepfather, not my dad. My stepdad's name is Daniel Giersdorf. He was a Metro police officer.

Zappia: Melanie said a lot of accusations. My sister in the course of 2017, my 15-year-old sister, commits suicide in Utah, shoots herself in the head, in her car at what's called the lookout. Well, Melanie, she told me that my sister did not commit suicide, that my sister was murdered as a repercussion for my stepdad Dano's actions.

BPE: Let's stop there. What actions by Dano, what is she talking about?

Zappia: I don't know. She never specified anything. The one thing Melanie did go on to say, so Melanie's brother Mike, Mike Andress, he committed suicide, I think like 19 years ago. Oddly, the police officer that responded to her brother's suicide was my stepdad, Dano. Melanie did tell me that my stepdad responded to it and she also told me that my stepdad didn't properly investigate the death because they too quickly ruled it suicide when no one commits suicide and shoots themselves twice in the face, but she believes her brother was murdered. That was Melanie's exact words with Connie present. I was very bothered by that statement because I do not know that my stepdad would ever do that.

BPE: Did your dad ever tell you how he first met Melanie or her brother, how did he meet them, do you know?

Zappia: He told me that he met Melanie, she was a detective, I think he said a detective or district attorney, I can't remember what he said she was, but he met her at her brother's wedding. I guess Mike invited my step-dad to the wedding and that was the first time he met Melanie.

The following are excerpts from our interview with Dano Giersdorf:

Giersdorf: This is Dano.

BPE: This is Doug Poppa calling from Las Vegas. Before we start talking I'm going to let you know we're on the record and this conversation is being recorded. I just need to inform you of that because of the regulations do you have a problem with that?

Giersdorf: No that's fine. Well Doug, my name is Daniel Giersdorf, you had my name in a couple of your articles in Vegas and that's why I contacted you because you've been using me in this uh, these articles, and I've been reading the information and you, it just hasn't been accurate what you've been printing, so I reached out to you just as a courtesy to kind of get you straight on where you were going with this stuff.

BPE: OK, and the information that was in the articles I believe you are talking about was coming from Judge Tobiasson, Melanie Andress-Tobiasson. Is that correct?

Giersdorf: Yeah, that's right. You know Doug I didn't get into the specifics of the article; I write notes down, just figured I'd give you the opportunity to ask me a few questions about it and stuff because the things I have been reading you've been off on. Like in your article I read some specific things like how I know Melanie and just that for a start. I'll start with that. I met Melanie back in like 1992...

BPE: In Las Vegas or another state?

Giersdorf: In Las Vegas. We had a mutual friend who was friends with her brother and that's how I met Mel. And her brother is Mike Andress and he's deceased now.

BPE: Who's the person who introduced you?

Giersdorf: His name is Mike also. My friend Mike and Mike Andress used to work together and so they all knew each other, they've known each other their whole lives, these people. Okay so, I saw that in your article, and I

wanted to just clear that up. You had printed in there about me being a vice officer...I was only in vice in 1996, the first part of '97 for only a hundred, not even a 120 days. It was a 90-day temporary duty assignment, so for three months I was in Vice and all that was, was a temporary duty, it's brand new detectives, they go to units like that to learn how to do case submittals and case management and stuff like that, but you're not permanently assigned to a unit. And I never worked in vice other than that, those ninety days in 1996. Lt. Terry Davis was my lieutenant and Sgt. Roy Phillips was my supervisor at the time, but it was only ninety days. That's the only time I've ever done anything with vice.

IT'S NOT GREG FLORES

Some of the other things I noticed that you printed in your article was about my stepdaughter Frankie. I keep seeing in your articles that someone keeps telling you that [LVMPD Vice Detective] Greg Flores is my stepdaughter's godfather. Frankie and my other stepdaughter Aryanne were seven and eight when I met their mother. They had already been baptized on their side of the family. Their dad is, their real dad is Italian, the whole side of the family is Italian, so they were baptized, and they had god-parents from the time they were infants, babies. OK, and it's not Greg Flores.

So let me tell you about Greg really quick. He's not the godfather of anybody I know. Here's the thing. I met Greg in 2006 when I transferred to the Northeast Area Command in the patrol section. Greg was one of the patrol squad members who was on the patrol squad with me. I was on that squad about six months before I left to go to an investigative unit. So I only knew Greg and worked with him in patrol for about six months, other than that I never worked with Greg or around him since then.

BPE: Did you know Greg before you moved to Las Vegas?

Giersdorf: No, I had no idea who Greg was until I went to his squad in 2006 and that was the first time I ever met him. I worked on that patrol squad for about six months before I went to another unit and that was my only work history with Greg. I'm reading your stories and the only thing I think is that Melanie has me confused with someone else, she's thinking about. Like I said, me and Mel were never close or anything, we were just acquaintances. We had hung out a couple of times back in the early 90s. I went to her brother's wedding, but other than that, me and Melanie never even had any kind of social relationship. I would see her occasionally when she was on the bench and I was in her courtroom and she would just wave at me cause she recognized me. But other than that we never had a conversation.

BPE: Were you guys ever romantically involved?

Giersdorf: No. And I heard that too from somebody and no, we were never involved like that.

HER BROTHER'S DEATH

BPE: Did you do something to her, or did she do something to you that she has animosity against you for some reason?

Giersdorf: I'm thinking and the best I can tell you, Melanie has me confused with someone else. She's got to be thinking someone else in her head and assuming it was me. But other than that I wouldn't know. Now, I saw something in there something about her brother's death. OK, so let me tell you what happened on that day. I was working patrol on the Northwest Area Command. That call came up on the call log and I saw the name on it because you read the calls when they come up when you're working patrol. I knew who Mike was and I went immediately to the scene. Now, other officers had already been dispatched to the scene. So I showed up outside the house and the other guys were already there handling the scene. Strictly because I knew who Mike was. Now at no time did I enter the house, no time whatsoever did I ever have any part in the investigation. That's not allowed.

BPE: As a patrol officer you wouldn't be investigating a death right, the death investigation, that would be the investigators correct?

Giersdorf: Well you do the initial investigation and everything else from the scene, but I didn't even do that, I never even went into the house. And while I was there at the scene, standing outside waiting to get information, that's when Melanie showed up and so I talked to Melanie for a few minutes and that's because I was talking to Mike's wife, Lorna, and then my sergeant showed up and he said, "Hey, you don't need to be here, take off."

I went over to Melanie to say goodbye and when we were there, a fella that was another mutual friend of Melanie's and her brother Mike and everything else, this guy named Johnny Ventura showed up. John was a bad dude, he got

himself in a lot of trouble, and so, I had met Johnny before, so I knew who he was, so I left, I said you know I got to go, I'm out. I left and went back on patrol and handled the rest of the calls for service that day.

BPE: Who's this guy Johnny Ventura, is he still alive?

Giersdorf: No, he got murdered, oh man, I don't know maybe eight years ago.

BPE: What was he involved in, what was his thing?

Giersdorf: When he got out of prison, he got arrested for, he was part of a group that was stealing all the ATM machines and then burying them after they robbed them. He got busted for that and he went to prison and when he got out of prison, I heard and I don't know for sure, it would simply be speculation, he was loansharking and when he went to collect, someone shot him in the back.

BPE: How did Melanie know him; do you know how she knew him?

Giersdorf: They all grew up together, Mel, her brother, my friend Mike, these guys all grew up together. They've known each other their whole lives. I never met Melanie or her brother until like right around 1992 when I was introduced to her brother Mike, and then I knew him a couple of times and then I met his sister and she went to a, we all went out together to the bar. Her brother Mike didn't drink, but he would go hang out, he would get water and stuff, and Mel went with us like once or twice, but that was it, I mean other than that there was nothing else there.

BPE: You saw the interview I did with Aryanne, and Frankie who I never spoke to, they're your step-daughters right?

Giersdorf: Yeah, they're step-daughters.

BPE: You saw what Ary said in the article about, that Melanie was telling her that, of course, she was talking about what you just told me about her brother and that Melanie thought you didn't handle the investigation right and that her brother was actually murdered. But you didn't do the investigation. You wouldn't have been involved in the death investigation of Mike Andress, right?

Giersdorf: I was never involved in anything. All I did was show up at the scene and I was outside the whole time. Other officers were already there and handled it. I just showed up because I knew Mike and I saw his name on there, I met her once before, so I just showed up as reasonably anybody would when your friend's dead, you go to see what happened. Like I said, I showed up, Mel showed up and then my sergeant showed up and I had to leave I had to go back to patrol, I had to go back to work. I never got on the property. I was in the street the whole time, at the perimeter.

(Michael G. Andress, 34, died on October 30, 1999.)

MELANIE SAID IT WASN'T A SUICIDE

BPE: When your daughter was talking that Melanie told her, she's talking about her sister's suicide that happened I guess about a year ago and Melanie says that it wasn't a suicide, that it was retaliation, her sister that died in Utah, that was retaliation for something you did. Do you have any idea what she's talking about there?

Giersdorf: No. But I'll tell you right now. This is the first and only time we're going to talk about my youngest daughter's death. Her death was a suicide, she left a note, she used her stepdad's gun...

BPE: We don't need to get into the details...

Giersdorf: There was no other reason to think anything else especially where she was at and where she lived and everything else. So my step-daughter's death should never have anything considered or brought up about my step-daughter's death.

(Talyn Giersdorf, 16, died on March 28, 2017.)

WHAT'S GOING ON WITH MELANIE

BPE: Why, it's not just that Melanie is attacking you on what she said about the brother and everything, but now she's talking about your daughter, what's her motivation here. I don't understand what she's trying to do here.

Giersdorf: I think she has me confused with someone else. I really do. That's the only thing I can think about. And this is why I say that. The stuff that she's saying you know about this whole thing going on with vice and pimps and everything else, I haven't been in vice since 1996, so why would she assume that I have anything do with any of that, if I never worked in that unit, you know what I mean. That's why she has me confused with somebody else. Now a funny thing about Mel is, about four months ago my friend Mike who has known her all his life, like I said, and her brother, told me and he says, "What's going on with Melanie." I said, "What do you mean." He goes, and he told me that his ex-wife called him and said Melanie is telling everybody that I, me, am going around and telling people that her son is my kid.

BPE: She's married to a retired Metro cop, Mr. Tobiasson.

Giersdorf: Toby Tobiasson, right.

BPE: And she's telling some friend that you know that you are...

Giersdorf: My friend called me and said that she had said that I'm running around telling everybody that her son is my kid. That was about four months ago. Me and Melanie never had any kind of sexual relationship whatsoever. We were just acquaintances, that was it. Like in 1990, whatever year her brother got married. You know what I mean. We haven't hung out or anything since then, so you understand that, you know. The last time I saw Melanie outside of a courtroom was at her brother Mike's funeral.

BPE: Since the stories came out, has she, when was the last time, did you ever speak to her, had contact with her. Did you contact her when the stories came out and say hey, what the hell is going on over here? I would do that. If somebody's talking bullshit about me, I'm going to call them up and say what the hell is your problem, what are you doing this for. That's what I would do, but I don't know if you did that.

Giersdorf: The only person I talked to so far has been a civil attorney about my name showing up in the paper on these articles and stuff, like that. That's the only person I've talked to is a personal attorney. The last time I saw Melanie and the chance to say hi to her was in 2009 and she was on the bench, I was in her courtroom, and that was it. I saw her on the bench, I waived hi, my case when I talked to the district attorney my case had been negotiated and I left, I never even talked to Mel. She just saw me come in. I saw her on the bench and waved hi at me, she was handling another case. When I went to check in with the district attorney he says this was negotiated, OK, I'm out and I left and that was it. So that was the last time I seen her, probably in 2009. I haven't tried to reach out and talk to Mel or her husband or anything like that, I have no reason to. Like I said, the fact that I know her from an acquaintance is so distant that I wouldn't feel right about calling her up and say hey Mel, this is Dano Giersdorf, you remember me. I'd have to start with, you remember me. It's been that long since I've seen her or talked to her.

BPE: Has she reached out to you since the stories came out and said something?

Giersdorf: No. She has me mixed up with somebody else, that's the only thing I can think. I get it that she's on some mission because her daughter is a prostitute. *(Editor's Note: Her daughter has never been charged with prostitution and there are no criminal records to support that allegation. Tobiasson claimed Shane Valentine was trying to recruit her daughter into the sex trade.)*

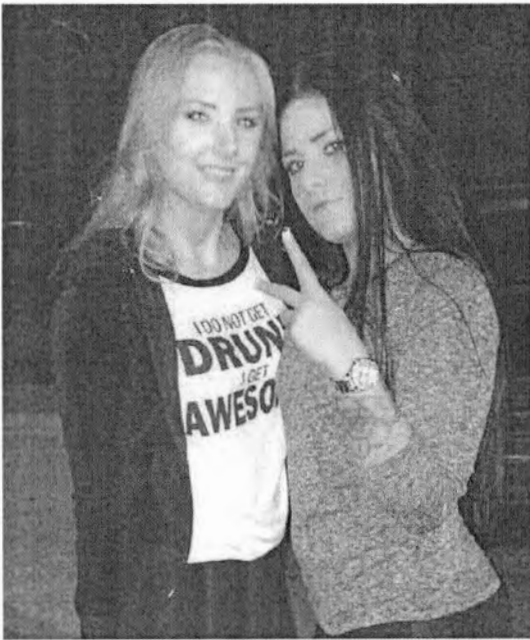
That's a hard thing for anybody to have to deal with. You know especially for a judge and her husband was a sergeant you know and stuff. I mean it's even hard for me. I have a step-daughter that was involved in the game too, you know it's a difficult thing to deal with and I'm sure she's reaching in any direction to point the blame at something or someone, other than the fact that she's not blaming her daughter, they make a conscious effort to end this game. You know, I swear she has me mixed up with someone else, because the stuff I'm reading, what you've posted so far, I'm thinking to myself, who, what the hell is she thinking, is she talking about. You know what I mean. The reason I reached out to you was because my name keeps popping up on this and I have absolutely nothing to do with any of this, other than the fact that I am a step-father to Frankie. You know what I mean.

Sydney Land and Frankie Zappia (Facebook)

SYDNEY LAND AND NEO KAUFFMAN

BPE: And you're not a step-father to Aryanne?

Giersdorf: I am a stepdad to Aryanne. Frankie was the original thing I was talking about, because you're talking about Sydney and Neo. I've met both of them, they've been to my house, oh shit, they've been to my house, because they came over with Frankie, maybe a dozen or more times.



BPE: So you knew Neo and Sydney, or just knew Sydney?

Giersdorf: I knew them both. They both came to the house with Frankie. They hung out together all the time. They were always together.

BPE: Frankie and Sydney?

Giersdorf: Yeah.

BPE: What about this kid Neo who was killed. Did she bring him over too?

Giersdorf: Yeah, he came to my house too. He was actually a really nice kid when he came to my house. He was really respectful you know and everything else. The same with Syd. But they were, Frankie and Sydney were always together.

BPE: Yeah right, I heard they were good friends, together.

Giersdorf: Yeah. I know Frankie had told us that even when she was in custody and that, Sydney would see her once a week for visitation. Talk to her, whatever. You know what I mean. Yeah, even from like high school on, those guys were, those two were you know, best friends.

BPE: Wow.

Giersdorf: If I remember right, I'm sorry, if I remember right, Frankie moved up to Utah, she would tell us that Sydney was up there with her to. Yeah. She would go visit them there. Yeah, they were all together. They were always together. Like I said, they would come to the house and hang out and stuff and so, um, yeah. We had a big island in our kitchen with chairs around it. Everybody would come and hang out in the kitchen and sit there all the time.

BPE: They were killed on October...

Giersdorf: They were at our house like two weeks, ten days right in there, before that. All three of them.

BPE: Wow. Okay, what about Melanie's daughter, Sarah Tobiasson, did she ever hang out with them. Do you know her?

Giersdorf: I never met Sarah. I've never met Sarah.

BPE: How did you know that she was a prostitute, you told me she was a prostitute?

Giersdorf: I read about it, I read about it in the articles.

BPE: No, Melanie never said her daughter was a prostitute. Melanie said that Shane Valentine tried to make her into a prostitute, and she said no, I'm not interested and left. Melanie never admitted to me or anybody else, as far as I know, I don't know if she admitted to anybody else, I'm not her friend...

Giersdorf: On News8, on News8 Las Vegas...she did a video on this whole thing. But I don't know her, like I said. I never even knew it, I couldn't even tell you, I don't know if Melanie even has a son. You know what I mean. When my friend called me and said hey, she's telling people that I'm running around telling everyone that I'm her son's dad, well one, I didn't know she had a son, until I saw that expose thing on News8, I'm sorry I assume it was the News8 thing.

BPE: I don't think she said on, Dano, I don't think she admitted on Channel 8 that her daughter was a prostitute. I think she said that they tried to get her into it, and she didn't get into it. I don't think she admitted it. I have to go back and look at it, or if she did, I have to look. She never told me when I interviewed her, what she told me was Shane Valentine wanted her, asked her and she left the house and she was just concerned that at some point he would try again.

Giersdorf: It was a long time ago, like I said, I haven't really been paid much attention to it. I know some reporter from News8 called me and asked me all these same questions, they asked me about my vice time, they asked me about Greg Flores, you know all these things and, the News8 reporter had all the information completely wrong also. And so I talked to her for about a half-hour and I explained to her, I said when I told her the only time I was in vice was back in 1996. The only time I knew Greg was the six months we worked together. She had asked me how often does Greg come to my house, which I thought was kind of funny because the only time Greg Flores has ever been to my house is when I was on that squad in patrol, they were changing sergeants and it was Christmas time and normally what will happen is the supervisor will do a Christmas party, you know everybody kind of get together, and we didn't have one at the time and I volunteered to use our house for the Christmas party without asking my wife. So, the whole squad was at my house for a Christmas party. All it was, we did dinner, we did some gifts, we hung out for a little bit and that was it. That's the only time Greg's been to my house and that would have been, trying to think what year I left the airport, so it had to be 2007, 2008. No 2006 was the same one when I met Greg, sorry trying to think of the year, it was going into 2007. So it was that Christmas.

BPE: So before you came to Vegas, because I think that's one of the things she said in one of the interviews, you didn't know Greg Flores before you came to Vegas?

Giersdorf: No, I came back from the Gulf War, I was stationed overseas, I separated out of Nellis and then I hired on the department ten months later, and I never met Greg until 2006 when I went to his squad in Northeast.

BPE: Were you guys drinking buddies like close or not that close?

Giersdorf: No, we worked together, that was it. We just worked together on the same squad.

BPE: Well this is very puzzling because I have no idea why she's saying what she's saying.

Giersdorf: We never hung out together outside of work. I never actually hung out with anybody from work, outside of work. Like I said the only time I, anybody been to my house from my squad was the Christmas party. That was the same year and that was because I volunteered at my house. I was the senior guy on the squad, that's why I volunteered. But other than that, that was it. So like I said, I think Melanie has me confused with someone else.

BPE: I'm going to ask you some questions about the interview when she mentions you, I want to get your reaction to it. I will do a story and fix this; your version will go into a story. She never elaborated on with me, you know, the guy that said that she said you were her son's father. I never heard of that. You saw the photograph in the last story when you guys were at the wedding and...

Tobiasson Giersdorf Mike Andress

Giersdorf: Mike's wedding. That's when, they played the bad boy theme from *Cops* for Mike. We all posed together; it was good humor.

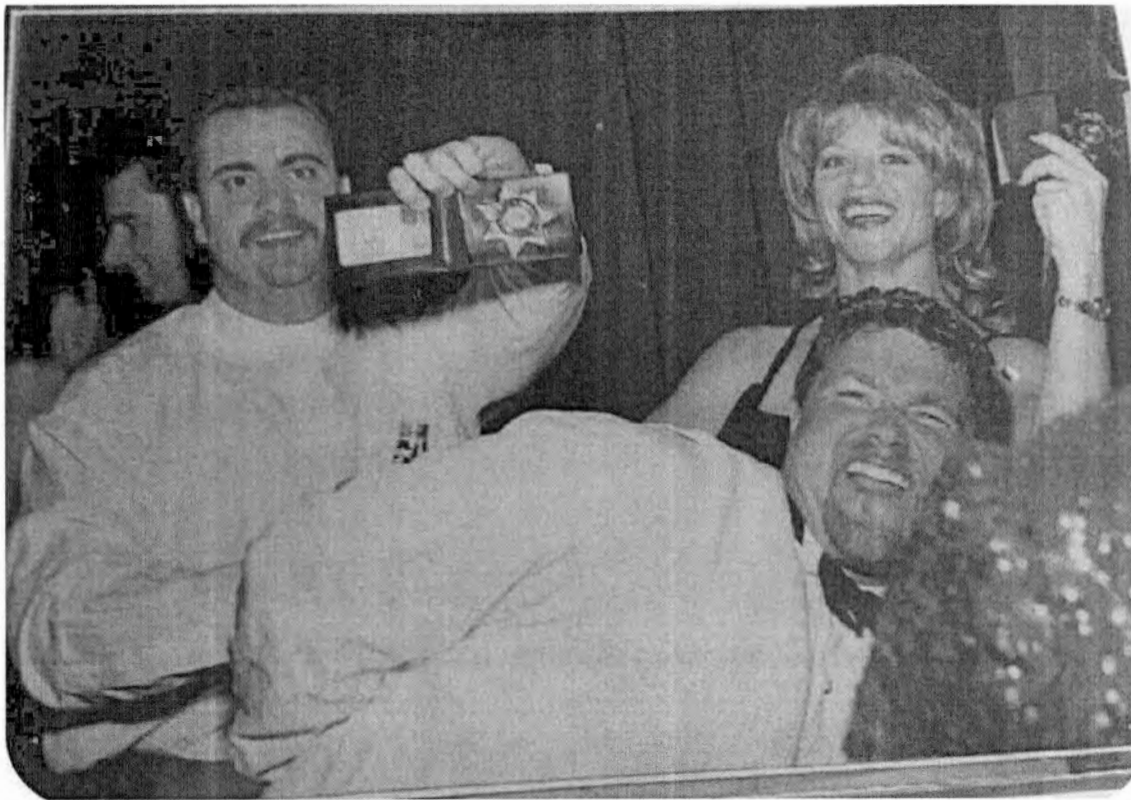
BPE: OK. I do not know what her end game is with you, it's extremely troubling because she is making a lot of accusations about a lot of people.

Giersdorf: There's an FBI investigation into the department or Vice or whatever every other year. Even when I hired on back in 1993 that's all I heard about. The FBI was investigating Vice or some other part of the department for something and that was pretty regular. Even when I went to Vice for that 90 days in 1996, everybody was talking about it, oh the FBI is investigating Vice again and even I told the news, the lady from News8. I said to hear that the FBI is investigating Vice is like hearing that it's going to be sunny in Vegas tomorrow. That's a normal thing to hear that, going on all the time. Like I said, for the 20 something years I was on the department that's all you heard about. The FBI is always looking into something from Metro.

BPE: She's making some allegations about one of the homicide guys.

Giersdorf: Hey Doug, like I said, forgive me if I'm just remembering it wrong. Something about the detectives are involved in homicide. What I'm telling you is I don't know who those guys are. I think I've met one of them, I think it was Dosch, but I've never met those guys before, I don't know them. You know I don't work Homicide, I never worked around them, you know there's 3,500 cops on the department completely, so I mean but, just so you know, I don't know who these guys are.

BPE: Tobiasson was telling me that you and Dosch were friends before you were cops, you bought houses in the same neighborhood, that's what she says in the interview.



Giersdorf: I may have met Dosch once or twice but here's the thing. I'll tell you this because I've heard this before. I was the only person on the department named Dano. And Dano is obviously going to stick out, it's not even my real name, I've been called Dano since I was really little. Did she say something about me, did she say, was there something in there about me retiring?

BPE: Yes. Tobiasson said that after the homicide, the double homicide, you retired four days later.

Giersdorf: Just so you know I retired on my birthday in 2015 with 22 years on the department. April 9, 2015, so I believe that's two years before this happened, almost. In fact this April it will be four years retired. So I'm telling you Melanie's thinking stuff or saying stuff about me, she has me screwed up with someone else. The reason I reached out to you was because the information you had about me was wrong. I do know Melanie like I said from the early '90s but never had any kind of relationship with her other than we hung out a few times, we had friends in common and I knew her brother, but that's it. Just so you understand. Since I've been retired I've had nothing to do with the department.

Who is Johnny Ventura?

Dano Giersdorf mentioned Johnny Ventura. The *Baltimore Post-Examiner* conducted an inquiry into Ventura.

In May 2003 John Vito Ventura was indicted on six felony counts stemming from an April 23, 2003 incident in Las Vegas where Ventura used a stolen backhoe to knock down an automated teller machine (ATM) and then stole thousands of dollars in cash.

Ventura was convicted and sentenced to Nevada State Prison. On July 11, 2014, Ventura, 47, was shot and killed during a physical altercation in North Las Vegas.

Tobiasson's Instagram account rips Frankie Zappia

It appears Tobiasson set up an Instagram account under a different name.

The *Baltimore Post-Examiner* has obtained a copy of Frankie Zappia's Instagram account for October 6, 2017, one year after the murders of Sydney Land and Nehemiah Kauffman.

A message posted on the account under "jfsan102516" read "One year since you helped kill her."

According to text messages obtained by the *Baltimore Post-Examiner*, Melanie Tobiasson set up an Instagram account under "jfsan102516" and posted that comment.

1 from Melanie 10/6/2017 9:29:41 PM



In text messages sent to Connie Land on October 6, 2017, Sydney Land's mother, Tobiasson wrote, "Did you see the comment. Look at jfsan102516." "Look at what I sent. Can't figure out how to delete the account now."

"The cops will probably try to figure it out for her."

Connie Land: Tobiasson played me

The *Baltimore Post-Examiner* has published numerous stories about Tobiasson asking Connie Land to send her all Land's communication messages with LVMPD Homicide Det. Mitch Dosch, who Tobiasson had made unsubstantiated claims to Connie Land that Dosch was corrupt and couldn't be trusted.

As we previously reported, Tobiasson claimed that the FBI was going to investigate the Land/Kauffman murders, which the *Baltimore Post-Examiner* later learned was not true. The FBI told Land that they were not investigating the murders and that she should continue to send whatever information she had to the LVMPD detectives assigned to the case.

In a November 9, 2017 email sent by Connie Land to Det. Dosch, Land wrote: "I sent all communication I had including text messages, phone records. She asked for all of my communication with you and everything I had on the case. I emailed that information to her. I can forward those correspondence as well. Please let me know. Again, I am sorry for what I may have said in these messages. I honestly thought there was no one I

could trust, and you were also involved. She [Melanie Tobiasson] completely played me.

Tobiasson confirmed that she had all of Connie Land's text messages with Det. Dosch during the *Baltimore Post-Examiner's* May 2018 interview with her: "I have all the text messages between him and Sydney Land's mom."

Why Tobiasson wanted all of those texts messages and communications between Land

SMS Message received from Melanie 10/6/2017 9:34:24 PM

Look at what I sent. Can't figure out how to delete the account now

SMS Message received from Melanie 10/6/2017 9:37:18 PM

Did you see the comment. Look at jfsan102516

SMS Message received from Melanie 10/6/2017 9:40:05 PM

The cops will probably try to figure it out for her.

and Dosch is anyone's guess.

At least one of those text messages that Tobiasson had possession of ended up in a 2018 article by the *Nevada Current*.

Those text messages may end up as part of a script for a Hollywood movie.

**SMS Message received from Master Of Puppets Melanie Tobiasson 10/21/2017
6:16:40 PM**

Im sitting at a table with a Hollywood producer. Guess what we will be talking about.

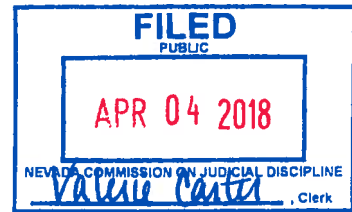
On October 21, 2017 Tobiasson sent a text message to Connie Land stating that she was sitting at a table with a Hollywood producer. "Guess what we will be talking

about," Tobiasson wrote.

It's so sad that the Kauffman and Land families have to wait to find out what Tobiasson is holding back on the murders of their children.

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

2 **STATE OF NEVADA**



3
4 In the Matter of)
5 THE HONORABLE RENA G. HUGHES,)
6 Eighth Judicial District Court, Family Division,)
7 Department J, County of Clark, State of Nevada,)
8 Respondent.)
9)
10)

CASE NO. 2016-113-P

11 **ORDER DENYING MOTION TO TRANSFER HEARING TO LAS VEGAS, NEVADA OR, IN**
12 **THE ALTERNATIVE, TO DO SAID HEARING BY VIDEO**

13 TO: THE HONORABLE RENA G. HUGHES, Respondent
14 WILLIAM B. TERRY, ESQ., Counsel for Respondent
15 THOMAS C. BRADLEY, ESQ., Prosecuting Officer

16 Currently before the Commission on Judicial Discipline (“Commission”) is a Motion To
17 Transfer Hearing To Las Vegas, Nevada Or, In The Alternative, To Do Said Hearing By Video
18 (“Motion”), which was filed by counsel for the Honorable Rena G. Hughes, District Court Judge,
19 Eighth Judicial District Court, Family Division, Department J for Clark County, Nevada
20 (“Respondent”) on February 20, 2018. Opposition To Respondent’s Motion To Transfer Hearing To
21 Las Vegas, Nevada Or, In The Alternative, To Do Said Hearing By Video was filed by the Prosecuting
22 Officer for the Commission (“Prosecuting Officer”) on March 6, 2018. Reply to the Prosecuting
23 Officer’s Opposition was filed by the counsel for Respondent on March 23, 2018.

24 **STATEMENT OF FACTS**

25 The Formal Statement of Charges alleges that Respondent, a District Court Judge in Clark
26 County, Nevada, held a Ms. Silva (“mother”) in contempt without due process and an opportunity to be
27 heard; imposed a penalty for contempt that changed custody of the minor child by awarding sole
28

1 physical and legal custody to the father; and changed physical and legal custody of the minor child
2 without a hearing as required by Nevada law.

3 On February 20, 2018, Respondent filed her Motion to change the hearing location to Las
4 Vegas, or in the alternative, permit testimony by video. The Respondent states that if the hearing is
5 held in Reno it will come at a rather significant cost to the Eighth Judicial District Court because
6 Judges Charles Hoskin and Diane Steel are anticipated to testify, as well as Senior Judge Gloria
7 O'Malley. Additionally, Respondent states that one witness, Ms. Tiffany Skaggs, is unable to travel for
8 the hearing because she has a flight out of the country the next day. Moreover, Respondent estimates it
9 would cost her over \$4,000 to have the witnesses appear in Reno based upon air fare, food and lodging.
10 Respondent argued that the Commission has significant funds to cover the cost of the Commissioners'
11 travel and as such should bear the cost burden of the trial.

12 Respondent opines that the Commission's procedural rules afford too much discretion in setting
13 a trial location. She notes, the Commission has previously relied on *Jones v. Nev. State Bd. of Med.*
14 *Exam'rs*, to deny a motion for change in venue based on the rule therein that when a general venue
15 statute and a specific venue statute conflict, the specific statute takes precedence. *Jones v. Nev. State*
16 *Bd. Of Med. Exam'rs*, 342 P.3d 50, 52 (Nev. 2015). However, Respondent states that Jones is not
17 entirely on point. She argues that in *Jones*, despite the fact that NRS 630.355 applies to procedures
18 regarding an administrative agency, the two conflicting procedural rules were both adopted by the
19 Nevada legislature, and therefore sit on equal footing. In the present situation, one of the conflicting
20 rules, NRS 13.040, has been adopted by the legislature and enacted into law, while the other,
21 Commission Rule 18, is a rule adopted by the Commission on Judicial Discipline and by the Nevada
22 Supreme Court by court order in 1988.

23 While Nevada courts have the power to make their own procedural rules, Respondent alleges
24 that Commission Procedural Rule 18 affords the Commission too much discretion. She notes that
25 comparatively, procedural rules governing attorney disciplinary proceedings state that "venue shall be
26 the county in which the attorney resides or maintains his or her principal office for the practice of law,
27 where the alleged offense was committed or where the parties have stipulated." SCR 105(2)(c). She
28

1 makes the analogy that SCR 105(2)(c) more closely resembles the general venue statute NRS 13.040,
2 which calls for a determination of venue based on the defendant's residency.

3 Respondent further argues that she meets NRS 13.050(2)(c)'s requirements that "the court may,
4 on motion, change the place of trial... when the convenience of the witnesses and the ends of justice
5 would be promoted by the change." See also *Eaton v. Second Judicial Dist. Court*, 96 Nev. 773, 75, 616
6 P.2d 400, 401 (1980), overruled on other grounds by *Pan v. Eighth Judicial Dist. Court*, 120 Nev. 222,
7 228, 88 P.3d 840, 844 (2004). Respondent noted in her affidavit that having four judges, including
8 herself, in Reno would hamper the ability of the Eighth Judicial District Family Court Division to
9 function.

10 Moreover, Respondent argues that holding the hearing in Reno, Nevada constitutes an abuse of
11 discretion. See *Goodman v. Goodman*, 68 Nev. 484, 487-88, 236 P.2d 305, 306 (1951). *Jackson v.*
12 *State*, 117 Nev. 116, 120, 17 P.3d 998, 1000 (2001). She argues that the relative burdens imposed on
13 either side are markedly unequal because holding the hearing in Reno will burden the Eighth Judicial
14 District Family Court Division's functioning, inconvenience a number of witnesses, critically interfere
15 with Respondent's due process rights, and cost the Respondent an excessive and unwarranted amount of
16 money to defend her case.

17 In the alternative, Respondent requests that she and all witnesses testify from Las Vegas by
18 videoconference pursuant to NRCPC 43(a). NRCPC 43(a) states that "in every trial, the testimony of
19 witnesses shall be taken in open court ... The court may, for good cause shown in compelling
20 circumstances and upon appropriate safeguards, permit presentation of testimony in open court by
21 contemporaneous transmission from a different location." NRCPC 43(a). Respondent acknowledges that
22 all pertinent language in this rule mirrors the Federal Rule of Civil Procedure Rule 43, and that in-
23 person testimony has value; however, the witnesses are judges and court staff and thus understand the
24 importance of testifying truthfully. Moreover, Respondent emphasizes that the functioning of the
25 Family Division of the Eighth Judicial District Court will be negatively impacted if several judges are
26 required to testify in Reno. Furthermore, one key witness is unavailable to testify in Reno based upon a
27 previously planned out of country trip.
28

1 Respondent further points out that the 1996 Committee Notes favor video transmission over
2 telephonic transmission, and that videoconferencing would allow the Commission to view each witness
3 as though they were sitting in-person at the hearing, noting that direct and cross examination with
4 documents and exhibits is possible, as is questioning by the panelists. She highlights that the
5 Commission would be able to observe witnesses' demeanor, facial expressions, reactions to questions,
6 body language, voice inflections, etc., which are all important elements in the fact-finder's task.

7 In summary, the Respondent argues that the facts and circumstances regarding the inability of a
8 key witness to attend, and the high cost to transport all witnesses there, may prevent Respondent from
9 adequately defending herself.

10 The Prosecuting Officer opposes Respondent's Motion to transfer the hearing location from
11 Reno to Las Vegas because the Respondent has failed to demonstrate extraordinary circumstances to
12 justify a change of venue, noting that the facts of the case are simple. The Prosecuting Officer
13 summarized the case as follows. In the underlying case, the mother and father had one child together.
14 The parties divorced in 2013 and the mother was granted primary custody and the father had weekend
15 visitation with the minor child. There were visitation problems and the father alleged that the mother
16 failed to comply with the recently ordered visitation, thus on May 17, 2016, the father's counsel filed a
17 Motion to place the matter back on calendar regarding the visitation.

18 On June 8, 2016, Respondent issued a Minute Order detailing the visitation issues. The
19 Respondent concluded that, "[t]his Court finds that Plaintiff [Mother] is in contempt of the Court's
20 order to facilitate visitation on weekends with the Father, AN ORDER TO SHOW CAUSE SHALL
21 ISSUE." The Minute Order further stated, "[m]other shall bring the minor child to Dept. J, Court room
22 [sic] #4, on June 15, 2016 at 1:30 p.m. If the Mother fails to deliver the minor child to the courtroom on
23 June 15, 2016, she shall be deemed in further contempt of Court, and sentenced to twenty- five (25)
24 days incarceration. If the Mother fails to appear, a bench warrant shall issue." The Minute Order also
25 addressed other Order to Show Cause issues that were not related to visitation, and stated in closing,
26 "[t]he Order to Show Cause Hearing shall be scheduled for July 28, 2016 at 1:30 p.m."

27 The mother arrived with her minor child at the scheduled hearing on June 15, 2016. Respondent
28 ordered all parties and counsel, except the minor child, to leave the courtroom, and addressed the child

1 for nine (9) minutes off the record. The mother was not allowed to return to the courtroom and was
2 escorted off the Courthouse property. In the mother's absence, Respondent awarded the father
3 temporary sole legal and physical custody, terminated the father's child support obligation, ordered the
4 mother to pay the statutory minimum child support to the father, and the mother was ordered to have no
5 contact with the minor child. The minor child was clearly distressed and cried during the entire
6 process. Respondent addressed the crying minor child by stating that the change in custody occurred
7 because the mother and minor child were not cooperative with the Court ordered visitations.
8 Respondent further stated that if the minor child refused to go with the father she would end up in Child
9 Haven, which Respondent referred to as a jail for kids.

10 The Prosecuting Officer summed up the case as having three issues: Did Respondent violate
11 Nevada law and the Judicial Code:

- 12 1) By holding Ms. Silva in contempt without due process and an opportunity to be
13 heard;
- 14 2) By imposing a penalty for contempt that changed custody of the minor child by
15 awarding sole physical and legal custody to the father; and
- 16 3) By changing physical and legal custody of the minor child without a hearing as
17 required by Nevada law.

18 The Prosecuting Officer argued that the Respondent incorrectly claims that the Commission's
19 Rules afford too much discretion and violate a Respondent's due process rights. The Prosecuting
20 Officer cited to *In the Matter of the Honorable Melanie Andress-Tobiasson*, Case No. 2014-094-P,
21 wherein the Commission relied upon *Jones v. Nev. State Bd. Of Med. Examiners*, 131 Nev. Adv. Op. 4
22 (Feb. 5, 2015) for holding the Judicial Commission hearing for a Las Vegas jurist in Reno, Nevada. He
23 argues that the doctrine of forum non conveniens is comprised of various factors, including a balancing
24 test of several factors such as public and private interests, access to sources of proof, availability of
25 compulsory process for unwilling witnesses, the cost of obtaining testimony from willing witnesses,
26 and the enforceability of a judgment and if failure to apply the doctrine would subject the defendant to
27 harassment, oppression, vexatiousness or inconvenience. See *Eaton v. Second Judicial Court*, 96 Nev.

1 773, 774 (1980) (citations omitted). *See also*, NRS 13.050. NRS 13.050(2)(c); *Mountain View*
2 *Recreation v. Imperial Commercial Cooking Equipment Co.*, 129 Nev. 413 (2013)(citations omitted).

3 The Prosecuting Officer notes that Respondent failed to disclose the substance of the testimony
4 of potential witnesses. For example, Respondent identifies Judge Diane Steel, Senior Judge Gloria
5 O'Malley, and Judge Charles Hoskin, but fails to include the substance of their expected testimony or
6 explain the relevance of their testimony. To counsel's knowledge, those Judges did not observe nor did
7 they have any involvement in the alleged misconduct. To the extent that Judges Hoskin and Steel will
8 provide a character reference, such evidence should be submitted by letter as is customarily done in
9 these cases. Accordingly, it is unclear if some of these witnesses will even be allowed to testify based
10 upon relevance and duplicity. *See* NRS 48.025 and 48.035.

11 Furthermore, the Prosecuting Officer notes that cost arguments are misguided as the witnesses
12 all could fly up and back the same day and thus the expenses would not amount to the \$4,000 claimed.
13 Moreover, the argument that less Commissioners would have to travel than witnesses is incorrect as
14 five (5) Commissioners would have to travel to a hearing for multiple days in Las Vegas, and as such
15 the cost is significant, but more importantly the availability of the Commissioners impacts the hearing
16 location decision as well. Thus, he argues that Commission Procedural Rule 18(1) instructs the
17 Commission to consult with Respondent and counsel regarding scheduling the date and time of the
18 hearing "where possible" to accommodate their schedules; and that occurred in this instance.

19 Respondent failed to demonstrate good cause to justify the use of videoconference to conduct
20 the hearing. The Prosecuting Officer acknowledges that the Commission possesses videoconference
21 capabilities between Reno and Las Vegas and has utilized it in a few uncontested hearings. The
22 Commission, however, does not have to grant such a request. *See* NRCP 43(a). Although the
23 Commission's procedural rules are silent as to whether hearings may be held by videoconference, the
24 Commission has previously determined that it is instructive to look to the Federal Rules of Civil
25 Procedure's standards governing videoconferences. *See In Re Andress-Tobiasson*, Case No. 2014-094-
26 P. Federal Rule of Civil Procedure 43 states that for "good cause in compelling circumstances and with
27 appropriate safeguards, the court may permit testimony in open court by contemporaneous
28 transmissions from a different location."

1 The Prosecuting Officer cites to the Federal Rules of Civil Procedure, Rule 43, Advisory
2 Committee's Notes which frown upon videoconferencing testimony without good cause. Notes to the
3 1996 Amendment to Rule 43(a); *see also Sille v. Parball Corp.*, 2:07-CV-00901-KJD, 2011 WL
4 2680560, at 2 (D. Nev. July 8, 2011). Moreover, the Prosecuting Officer cited to cases highlighting the
5 importance of in-person testimony. *See Edwards v. Logan* 38 F. Supp. 2d 463 , 467 W.D. Va. (1999);
6 *Morrow v. U.S Parole Commission*, 2012 WL 2877602); *United States v. Williams*, 641 F.3d 758, 764-
7 65 (6th Cir.20 11) (Being physically present in the same room with another has certain intangible and
8 difficult to articulate effects that are wholly absent when communicating by videoconference).

9 Further, the Prosecuting Officer argues that the Nevada Federal District Court found that, when
10 the federal rule states a court may permit contemporaneous transmission "for good cause in compelling
11 circumstances" the rule really means "for good cause in compelling circumstances." *Niemeyer v. Ford*
12 *Motor Co.*, 2:09- CV-2091 JCM PAL, 2012 WL 5199145, at 2 (D. Nev. Oct. 18, 2012). Additionally
13 the Prosecuting Officer states that a blanket request for authorization for video testimony was ruled"
14 problematic due to the fact it is unclear at this juncture how many of those witnesses will actually be
15 able to provide testimony relevant to the issues in this case." *Sille v. Parball Corp.*, 2:07-CV-00901-
16 KJD, 2011 WL 2680560, at 2 (D. Nev. July 8, 2011). He states, furthermore, in federal cases, monetary
17 expenses fail the good cause test. *See Vaughn v. Stevenson*, 2007 WL 460959, at 2-3 (D. Colo. 2007).
18 He argues that Respondent's allegations fail to meet the standard of "compelling circumstances." He
19 notes, however, if the Commission is inclined to grant testimony by videoconference, it should be
20 limited to certain relevant witnesses, and not the Respondent, based upon good cause. Finally, he notes
21 that the hearing at issue was videotaped so testimony regarding the events that transpired during the
22 hearing is unnecessary, and that the procedural history and pleadings are contained in the Court's
23 docket sheet and file so no oral testimony is needed regarding procedural history.

24 In conclusion, he argued that Respondent's Motion for Change of Venue should be denied
25 because the Respondent failed to show compelling circumstances to justify moving the hearing from
26 Reno to Las Vegas; and failed to disclose the substance or relevance of the testimony of her witnesses
27 so it is not possible to determine whether certain witnesses should be allowed to testify by
28

1 videoconference. Therefore, Respondent fails to meet her burden to allow videoconferencing and the
2 Motion should be denied.

3 Respondent's Reply noted that the witnesses, which are expected to be called, are all from Las
4 Vegas. She notes there may be changes or additions to the witnesses and Respondent is still considering
5 that at this point in time, however, no matter who specifically ends up testifying, however, it appears
6 that they will be from Las Vegas, Nevada since that is where the "event" occurred. Respondent states
7 that she was never consulted as to whether or not it would be convenient to have the hearing in Reno,
8 Nevada vs. Las Vegas, Nevada. The Respondent distinguishes the *Tobiasson* matter, where in that
9 instance the judge was the only witness.¹

10 ISSUE

11 Whether the venue for the formal hearing in question should be changed from Reno, Nevada to
12 Las Vegas, Nevada based upon NRS 13.050(2)(c), and/or if the hearing should be conducted through
13 videoconference between Reno, Nevada and Las Vegas, Nevada.

14 STANDARD FOR CHANGE OF VENUE

15 Commission Procedural Rule 18. Formal Hearing.

- 16 1. When the answer has been filed, a formal hearing shall be scheduled, if practicable,
17 within 60 days unless waived by both the Commission and the Respondent. The
18 Respondent and all counsel must be notified of the time and place of the hearing and
19 must first be consulted concerning the scheduling thereof to accommodate, where
20 possible, the schedules of the Respondent and counsel and those of their witnesses.
The proper venue for judicial hearings and proceedings shall be determined by the
Commission at its sole discretion.

21 ...

22 NRS 1.462. Proceedings before Commission; applicable rules

- 23 1. Proceedings before the Commission are civil matters designed to preserve an
24 independent and honorable judiciary.
25 2. Except as otherwise provided in NRS 1.425 to 1.4695, inclusive, or in the procedural
26 rules adopted by the Commission, after a formal statement of charges has been filed,
27 the Nevada Rules of Civil Procedure apply.

28 NRS § 1.462

¹ Only Judge Tobiasson testified at the hearing; however, one other witness was scheduled to testify and was in Reno, Nevada for the hearing.

1 **NRS 13.050. Cases in which venue may be changed**

2 ...
2. The court may, on motion, change the place of trial in the following cases:

3 ...
3 (c) When the convenience of the witnesses and the ends of justice would be promoted
4 by the change.

5 ...
5 NRS § 13.050

6 **DISCUSSION**

7 **I. Venue**

8 The Nevada Supreme Court has held that the long standing rule of statutory construction
9 wherein a specific statute conflicts with a general statute, the specific statute takes precedence.
10 *Andersen Family Assocs. v. State Eng’r*, 124 Nev. 182, 187, 179 P.3d 1201, 1204 (2008). In that vein,
11 the Supreme Court held in *County of Clark v. Howard Hughes Co.*, 305 P. 3d 896 (2013) that NRS
12 361.420(2), which permitted a taxpayer to seek judicial review of a State Board’s determination in any
13 court of competent jurisdiction within Nevada, prevailed over the general venue statute of NRS
14 13.030(1), which read that actions against a county may be commenced in the judicial district
15 embracing said county. The Supreme Court applied that same reasoning regarding administrative
16 agencies in *Jones v. Nev. State Bd. Of Med. Examiners*, 131 Nev. Adv. Op. 4 (Feb. 5, 2015).

17 In *Jones*, the Supreme Court examined venue within the administrative agency context. In that
18 matter, a doctor from Clark County appealed a Second Judicial District Court’s (Washoe County)
19 denial of her motion for a change of venue to the Eighth Judicial District Court in Clark County. The
20 change in venue motion was denied based upon NRS 630.355 which held that the proper venue for
21 contempt was in the district court of the county in which the proceeding was being conducted, which in
22 that matter was Washoe County. The doctor argued that NRS 13.040’s forum non conveniens was not
23 considered in the ruling. The Supreme Court held that NRS 630.355 prevailed as it specifically
24 addressed the issue of venue in a contempt action and thus took precedence over the general venue
25 statute of NRS 13.040, therefore, the doctor’s arguments based upon forum non conveniens were
26 unavailing.

27 In *Jones*, the Supreme Court held that the venue for the petition was in the county where the
28 work of the Medical Board was taking place, and that forum non conveniens was not applicable. The
same holds true in this instance. The Commission is located in northern Nevada, and Commission Rule

1 18 states that respondent must be consulted regarding the scheduling of the hearing regarding date and
2 time only, and to accommodate, where possible. The consultation did occur regarding date and time,
3 and the location for the hearing was set in Reno, Nevada as per the Commission's authority in
4 Commission Rule 18.

5 Furthermore, Respondent's Motion to Change Venue is procedurally deficient as it lacks any
6 discussion regarding specific witness testimony in support of the change in venue. NRS 13.050(2)(c),
7 which provides a court with discretion to change venue "[w]hen the convenience of the witnesses and
8 the ends of justice would be promoted by the change." The Nevada Supreme Court has indicated that
9 venue may only be changed under NRS 13.050(2)(c) "under exceptional circumstances strongly
10 supporting another forum," and that "[a] motion for change of venue based on forum non conveniens
11 must be supported by affidavits so that the district court can assess whether there are any factors present
12 that would establish such exceptional circumstances." *Mountain View Recreation, Inc. v. Imperial*
13 *Commercial Cooking Equip. Co.*, 129 Nev. 413, 419, 305 P.3d 881, 885 (2013). In the absence of such
14 evidence as to why a venue change is warranted, the Supreme Court has concluded that a venue change
15 under NRS 13.050(2)(c) is improper. *Id.* at 420, 305 P.3d at 885.

16 In this instance, Respondent's affidavit addressed the costs to fly the five (5) witnesses to Reno
17 and the impact upon the court calendar of two sitting judges who are listed as witnesses. While the
18 Commission takes note of the impact upon trial calendars of the judges, the same impact occurs for two
19 of the judicial Commissioners in this action as well. The impact on the Eighth Judicial District Family
20 Court's docket for the day of trial is unavoidable if the witnesses testify, even if the trial were in Las
21 Vegas. Furthermore, it is not clear from the Motion or affidavit, if the witnesses' testimony is relevant
22 or duplicative. NRS 48.025 and NRS 48.035. The hearing at the center of the Formal Statement of
23 Charges was captured primarily on the Court's JAVS system, and thus the video and court documents,
24 in addition to Respondent's testimony, are relevant to the Commission hearing.

25 Moreover, general allegations regarding inconvenience or hardship are insufficient because "[a]
26 specific factual showing must be made." *Eaton v. Second Judicial Dist. Court*, 96 Nev. 773, 774-75,
27 616 P.2d 400, 401 (1980), *overruled on other grounds by Pan v. Eighth Judicial Dist. Court*, 120 Nev.
28 222, 228, 88 P.3d 840, 844 (2004). Respondent simply made general allegations that Respondent, her

1 staff and court staff witnesses are all based in Las Vegas, and it would be costly for Respondent to pay
2 for the travel of all witnesses and would inconvenience the Eighth Judicial District Court. However, the
3 trial is scheduled for one day and all of the witnesses can fly from Las Vegas to Reno on the day of
4 trial. This lessens the impact upon Respondent's costs and any inconvenience to the witnesses.
5 Moreover, Respondent cited to the Commission's budget noting that the Commission returned funds to
6 the State of Nevada. The budget of the Commission is far more complicated than pled, and making
7 travel arrangements for seven Commissioners, whose schedules must be accommodated, is extremely
8 problematic. Furthermore, fiscal concerns are permitted to be considered by the Commission in
9 scheduling hearings at the expense of taxpayer dollars. *See Matter of Halverson*, 123 Nev. 493, 517-
10 18, 169 P.3d 1161, 1178 (2007).

11 In order for venue to change based upon forum non convenience, exceptional circumstances
12 must be plead. *Mountain View Rec. v. Imperial Commercial*, 305 P.3d 881 (2013). In *Mountain View*,
13 allegations that holding trial in Pahrump, where the underlying incident occurred, would be
14 inconvenient to witnesses and parties because the majority of the litigation and discovery, including the
15 majority of depositions, took place in Las Vegas, and that physical evidence, the special master, and
16 the majority of counsel were located in Las Vegas, and that all experts located outside of Pahrump
17 would have to travel through Las Vegas to attend court proceedings in Pahrump, failed to establish the
18 existence of exceptional circumstances, thus the Nevada Supreme Court reversed the trial court's
19 decision to change venue from Nye County to Clark County. *See id.* The same general allegations
20 apply in this matter as the trial is a one day trial that will require only minimal travel by the witnesses
21 as all witnesses can fly to and from Reno in one day. Respondent provided a list of witnesses in her
22 affidavit, however without notice of what each witness will testify to, there are no factors present that
23 would establish exceptional circumstances as required in *Mountain View*. Respondent failed to plead
24 any exceptional circumstances that would merit a change in venue.

25 Therefore, Respondent's Motion for Change of Venue is hereby denied.

26 ///

27 ///

28 ///

1 **II. Electronic Testimony**

2 In the alternative, Respondent argues for the videoconferencing of the hearing. While the State’s
3 teleconference abilities between locations provides the persons present at each location with the ability
4 to hear and communicate with the persons present at each other location, the Commission does not have
5 to grant such a request. NRCP 43

6 Federal Rules of Civil Procedure Rule 43 permits for “good cause in compelling circumstances
7 and with appropriate safeguards, the court may permit testimony in open court by contemporaneous
8 transmission from a different location.” While such testimony may be permitted, the Federal Rules of
9 Civil Procedure, Rule 43, Advisory Committee’s Notes frown upon videoconferencing testimony
10 without good cause. The notes to the 1996 amendment to Rule 43(a) make it clear that transmission
11 cannot be justified by demonstrating that it is inconvenient for the witnesses to attend the trial. *See also*
12 *Sille v. Parball Corp.*, 2:07-CV-00901-KJD, 2011 WL 2680560, at 2 (D. Nev. July 8, 2011) The
13 Notes emphasize the importance of actual, live testimony by a witness who is present in the courtroom.
14 The Notes state that the “ceremony” of the courtroom and the actual “presence of the fact finder may
15 exert a powerful force for truth-telling.”

16 The Nevada Federal Court found that, “when the federal rule states a court may permit
17 contemporaneous transmission “for good cause in compelling circumstances” the rule really means “for
18 good cause in compelling circumstances.” *Niemeyer v. Ford Motor Co.*, 2:09-CV-2091 JCM PAL,
19 2012 WL 5199145, at 2 (D. Nev. Oct. 18, 2012). In *Niemeyer*, the court noted that video transmission
20 would “deprive jurors of the ability to make face-to-face determinations about Dr. Singer's testimony,
21 demeanor, mannerisms, and reactions to certain questions proffered by defendants.” *Id.* Additionally,
22 a blanket request for authorization for video testimony was ruled “problematic due to the fact it is
23 unclear at this juncture how many of those witnesses will actually be able to provide testimony relevant
24 to the issues in this case.” *Sille v. Parball Corp.*, 2:07-CV-00901-KJD, 2011 WL 2680560, at 2 (D.
25 Nev. July 8, 2011) Furthermore, in federal cases, monetary expenses fail the good cause test. *See*
26 *Vaughn v. Stevenson*, 2007 WL 460959, at 2-3 (D. Colo. 2007) (holding that the fact that producing a
27 witness will be expensive and time consuming does not demonstrate “good cause” much less
28

1 "compelling circumstances" that would warrant deviation from the preferred practice of presenting live
2 testimony in the courtroom).

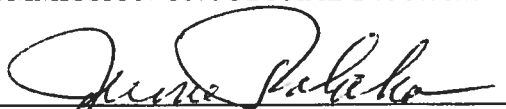
3 Respondent's "good cause" for a videoconference is monetary and/or for convenience of the
4 Respondent and witnesses. However, it is unclear if all witnesses listed will testify based upon
5 relevance or duplicity. Respondent's reasons for requesting testimony by video lacks any compelling
6 circumstances, and appears to be more of a threat that her hearing will impact the Eighth Judicial
7 District Family Court Division. Such a broad swipe at a change of venue request through a listing of
8 judges and court staff as witnesses without specificity as to testimony is not a relevant factor for a
9 change in venue. Moreover, minor monetary issues and inconvenience fail the good cause standard.

10 District courts have "inherent power to control the disposition of the causes on its docket with
11 economy of time and effort for itself, for counsel, and for litigants." *In re Stratosphere Corp. Sec.*
12 *Litig.*, 182 F.R.D. 614, 617 (D.Nev.1998). In this instance, the Commission controls the time, place and
13 forum of the hearing. Commission Rule 18. As the Commission sets its own procedures within the
14 confines of due process, the Commission likewise controls its own docket, and as such may deny the
15 motion for video conferencing, and based upon lack of good cause and lessened ability to observe the
16 demeanor of Respondent and witnesses, the Motion for Electronic Testimony is hereby denied.
17 However, any character evidence may be presented by letter, and thus there is no need for electronic
18 testimony.

19 Respondent's Motion for Change of Venue, or in the Alternative, for Electronic Testimony is
20 hereby denied. The Honorable Jerome Polaha is authorized to sign this order on behalf of the full
21 Commission.

22 DATED this 3^d day of April, 2018.

23 STATE OF NEVADA
24 COMMISSION ON JUDICIAL DISCIPLINE

25 
26 Jerome Polaha, Presiding Judge

27
28

1 **CERTIFICATE OF SERVICE**

2 I hereby certify on this 6th day of April, 2018, I transmitted a copy of the foregoing ORDER
3 DENYING MOTION TO TRANSFER HEARING TO LAS VEGAS, NEVADA OR, IN THE
4 ALTERNATIVE, TO DO SAID HEARING BY VIDEO, via email and by placing said document in the
5 U.S. Mail, postage prepaid, addressed to:

6 William B. Terry, Esq.
7 William B. Terry, Chartered Attorney at Law
8 530 South Seventh Street
9 Las Vegas, NV 89101-6011
10 info@williamterrylaw.com

11 Thomas C. Bradley, Esq.
12 Sinai, Schroder, Mooney, Boetsch, Bradley & Pace
13 448 Hill Street
14 Reno, NV 89501
15 tom@stockmarketattorney.com

16 

17 _____
18 Valerie Carter, Commission Clerk
19
20
21
22
23
24
25
26
27
28

TAB 4

FILED

IN THE SUPREME COURT OF THE STATE OF NEVADA

NOV 19 2010

TRACEY K. UNDERMAN
CLERK OF SUPREME COURT
BY *[Signature]*
CHIEF DEPUTY CLERK

IN THE MATTER OF THE STANDING
COMMITTEE ON JUDICIAL ETHICS
AND ELECTION PRACTICES.

ADKT No.

0458

PETITION

COME NOW, Mark Gibbons and Nancy M. Saitta, Associate Justices of the Nevada Supreme Court, who petition the Nevada Supreme Court on its Administrative Docket to review the role of the Standing Committee on Judicial Ethics and Election Practices as follows:

1. The Standing Committee on Judicial Ethics and Election Practices (Standing Committee) considers matters of alleged unfair election practices and can issue orders pursuant to the Nevada Code of Judicial Conduct.

2. The Standing Committee also issues Advisory Opinions regarding ethical issues posed to the Standing Committee.


3. Since the formation of the Standing Committee, a body of federal and state caselaw has developed relating to judicial election practices and ethical issues including but not limited to Citizens United v. Federal Election Com'n, 130 S. Ct. 876 (2010) and Caperton v. A.T. Massey Coal Co., Inc., 129 S. Ct. 2252 (2009).

4. That some of the orders and opinions issued by the Standing Committee may be in conflict with this developing caselaw.


WHEREFORE, the undersigned request the Supreme Court to conduct a public administrative hearing to determine if the current role of the Standing Committee should be modified or, alternatively, whether the Standing Committee should be abolished in whole or in part.

10-30314

Respectfully submitted this 19th day of November, 2010.

 _____, J.

Gibbons

 _____, J.

Saitta

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF THE STANDING
COMMITTEE ON JUDICIAL ETHICS
AND ELECTION PRACTICES.

ADKT 0458

FILED

JUN 29 2011

TRACIE A. LINDEMAN
CLERK OF SUPREME COURT
BY *[Signature]*
CHIEF DEPUTY CLERK

ORDER AMENDING PART VIII OF THE SUPREME COURT RULES

WHEREAS, the Honorable Mark Gibbons and the Honorable Nancy M. Saitta, justices of the Supreme Court of Nevada, filed a petition on November 19, 2010, requesting that this court review the role of the Standing Committee on Judicial Ethics and Election Practices; and

WHEREAS, this court solicited public comment and conducted a public hearing on this matter on March 10, 2011, and thereafter considered the comments and submissions received; and

WHEREAS, this court concludes that amendments to Section VIII of the Supreme Court Rules are warranted; accordingly,

IT IS HEREBY ORDERED that Part VIII of the Supreme Court Rules shall be amended and shall read as set forth in Exhibit A; and

IT IS FURTHER ORDERED that these amendments shall be effective 30 days from the date of this order. The clerk of this court shall cause a notice of entry of this order to be published in the official publication of the State Bar of Nevada. Publication of this order shall be accomplished by the clerk disseminating copies of this order to all subscribers of the advance sheets of the Nevada Reports and all persons and agencies listed in NRS 2.345, and to the executive director of the State Bar of Nevada. The certificate of the clerk of this court as to the

accomplishment of the above-described publication of notice of entry and dissemination of this order shall be conclusive evidence of the adoption and publication of the foregoing rule amendments.

Dated this 29th day of June, 2011.

Douglas, C.J.
Douglas

Cherry, J.
Cherry

Saitta, J.
Saitta

Gibbons, J.
Gibbons

Pickering, J.
Pickering

Hardesty, J.
Hardesty

Parraguirre, J.
Parraguirre

cc: All District Court Judges
All Justices of the Peace
All Municipal Court Judges
Constance Akridge, President, State Bar of Nevada
Kimberly Farmer, Executive Director, State Bar of Nevada
David F. Sarnowski, General Counsel and Executive Director,
Nevada Commission on Judicial Discipline
Clark County Bar Association
Washoe County Bar Association
First Judicial District Bar Association
Administrative Office of the Courts

**PART VIII. RULES GOVERNING THE STANDING
COMMITTEE ON JUDICIAL ETHICS [AND ELECTION
PRACTICES]**

Rule 1. Creation and organization of the committee.

1. Creation and purpose. The Standing Committee on Judicial Ethics and Election Practices is hereby created to ~~[resolve ethical disputes arising in the course of campaigns for judicial office, and to]~~ provide judges and aspirants to judicial office advisory opinions regarding ethical matters that may arise in the ordinary course of judicial service, or in the elective or appointment process.

2. Organization of the committee. The committee shall consist of thirty members. Twelve shall be attorneys, twelve shall be non-attorneys, and six shall be judges designated to serve on the ethics advisory committee as provided in Rule 5. ~~[In addition, every district and senior judge is an ex officio member of the unfair election practices panels, and may be asked by the chair to serve as a non-voting member of a panel as provided in Rule 4.]~~

The Board of Governors of the State Bar shall appoint the attorney members, and the Governor may appoint the non-attorney members. If the Governor declines to appoint, then the Board of Governors of the State Bar and the Nevada Commission on Judicial Discipline shall each appoint six of the non-attorney members. The supreme court shall appoint three district judges and three judges serving either as municipal court judges or justices of the peace.

When appointing the non-attorney members, consideration shall be given to each appointee's experience in the areas of advertising and public relations, journalism, regulatory bodies, politics and political campaigns, and also to the appointee's other qualifications and

experience as will ensure that diverse points of view are represented on the committee.

(a) Terms. Appointments or reappointments are for a two-year term of office. The initial membership shall have staggered terms. No member shall be appointed to more than four[,] consecutive full terms.

(b) Removal. Committee members are not subject to removal by their appointing authority during their terms of office, except for cause. Cause includes unexcused failures to attend scheduled meetings, the number of which the committee shall set in an attendance policy.

3. Officers of the committee. There shall be a chair and vice-chair. The Nevada Commission on Judicial Discipline shall appoint the chair and vice-chair from the attorney members of the committee for two-year terms.

4. Executive director of the committee. The executive director of the Nevada Commission on Judicial Discipline shall act as the executive director of the committee.

Rule 2. Functions of the committee. The committee shall:

~~**[1. Provide judicial candidates with a forum to resolve charges of knowing misrepresentation of the identity, qualifications, present position or other fact concerning the candidate or an opponent;**~~

~~**2. Decide whether a candidate has engaged in unfair election practices;]**~~

~~[3.]~~1. Render non-binding advisory opinions on hypothetical questions regarding the Nevada Code of Judicial Conduct; and

~~[4.]~~2. Assist the supreme court by studying and recommending additions to, amendments to, or repeal of provisions of the Nevada Code of Judicial Conduct or other laws governing the conduct of judges and judicial candidates.

Rule 3. Conflicts of interest. Committee members shall not participate in any matter in which they have either a material pecuniary interest that would be affected by a proposed advisory opinion or committee recommendation, or any other conflict of interest which prevents them from participating. However, no action of the committee will be invalid where full disclosure of a potential conflict of interest has been made and the committee has decided that the member's participation was not improper.

Rule 4. Reserved. ~~[Unfair election practices. The committee shall have the authority to determine whether a candidate for judicial office has engaged in an unfair election practice. An "unfair election practice" is any practice or act which would violate Canon 5 of the Nevada Code of Judicial Conduct, except that the committee has no authority to determine whether a candidate has made pledges, promises or commitments that are inconsistent with the impartial performance of the adjudicative duties of judicial office as prohibited by 5A(3)(a) and 5A(3)(d)(i).~~

~~1. Panels. Matters concerning unfair election practices shall be decided by panels of five members, such panels consisting of two attorneys, two non-attorneys, and one judge. A district judge, a justice of the peace or municipal judge, or a senior judge, justice of the peace or municipal judge, may serve as a member of the panel. The panels shall be chosen on a random basis by the chair. Four voting members shall constitute a quorum, and the vote of three members of any panel is necessary to take action.~~

~~(a) If requested to serve on a panel, a judge shall accept the appointment unless the judge is disqualified from serving under the provisions of Canon 3E of the Nevada Code of Judicial Conduct.~~

~~(b) The chair shall not request a judge to serve on a panel and a judge shall not serve on a panel if:~~

~~(1) The alleged unfair election practice involves a candidate for any judicial office within the judicial district in which the judge holds office or previously held office; or~~

~~(2) The judge is a candidate for judicial office and he or she has an opponent who has officially filed a declaration of candidacy for the same judicial office.~~

~~2. Powers of the panel. A committee panel may consider:~~

~~(a) Only matters referred to the committee by a candidate for judicial office; and~~

~~(b) Only incidents arising from actions of a candidate for judicial office or those working for a candidate's~~

~~election; provided, however, that the committee panel shall have the authority to determine whether a person is, in fact, working for the election of a candidate.~~

~~3. Procedure for reviewing complaints.~~

~~(a) A complaint by a judicial candidate against another judicial candidate shall be submitted to the executive director of the committee in writing and must set forth the facts underlying the complaint.~~

~~(b) Upon receipt of the complaint, the committee chair or executive director shall immediately contact the candidate whose conduct is in question, advise him or her of the complaint, and ascertain whether the allegations are admitted or denied.~~

~~(1) If the accused candidate admits the truth of the allegations, then the matter shall be referred to a panel of the committee for appropriate action. The accused candidate shall be invited to attend the meeting of the panel to explain his or her actions.~~

~~(2) If the accused candidate denies the actions, the complaining candidate shall be advised to be present at the meeting of the panel and to bring forth proof of the matters alleged in the complaint. The accused candidate shall also be invited to attend and present a defense to the complaint.~~

~~(3) During this entire procedure, neither the candidate nor any member of the committee or panel shall make any public reference to the fact that the matter is pending before the committee. Nothing in these rules, however,~~

~~prohibits a candidate from making public charges of unfair election practices.~~

~~4. Resolution of complaint. Once the committee or panel reaches a decision, the candidates will be advised of the decision and the intended remedy. All decisions shall be in writing, and shall be open for public inspection at the committee's office.~~

~~(a) If the committee or panel finds unfair election practices, the committee or panel has authority to:~~

~~(1) Impose sanctions, including public censure, but excluding fines or civil penalties. If a public statement is made by the committee or panel, that statement may be used by the aggrieved candidate in the campaign.~~

~~(2) Refer any matter to the appropriate body for professional discipline, and the committee's or panel's findings may be used as evidence in any disciplinary proceeding.~~

~~(3) Respond publicly to any unauthorized public reference to the committee by a candidate.~~

~~(b) A public statement by the committee or panel of its findings may not always be appropriate. For example, an untrue statement may be corrected by a public retraction of the statement by the offending candidate; in the event that the group addressed by the offending candidate was relatively small, then a retraction directed to that particular group may be deemed sufficient.~~

~~5. Confidentiality. All meetings of panels concerning unfair election practices are confidential. Any decision shall be signed by the chair or vice chair, and all decisions must be made public.]~~

Rule 5. Ethics advisory committee. The attorney members of the Standing Committee on Judicial Ethics and Election Practices and six judges appointed by the supreme court shall function as an ethics advisory committee. The committee has the authority to render non-binding advisory opinions on hypothetical questions regarding the Nevada Code of Judicial Conduct. The advisory opinions may also be issued by a panel of the ethics advisory committee.

1. Opinions. Any opinion issued by the committee expresses the judgment of the committee and is advisory only. When it is determined that a request warrants a written opinion, the opinion shall:

(a) Set forth hypothetical facts of the ethical question presented in a general manner without identification of the requesting judge or judicial candidate or any details of the request which would permit such identification;

(b) Identify the judicial canons ~~[or other authorities]~~ relied upon and include other authorities relevant to the disposition of the opinion;

(c) Include a discussion and conclusion;

(d) Be signed by the chair or vice-chair of the committee;

and

(e) Conclude with the following statement:

This opinion is issued by the Standing Committee on Judicial Ethics and Election Practices. It is advisory only. It is not binding upon the courts, the State Bar of Nevada, the Nevada Commission on Judicial Discipline, any person or tribunal charged with regulatory responsibilities, any member of the Nevada judiciary, or any person or entity which requested the opinion.

2. Panels. The ethics advisory committee may be divided into panels of eight members each. The chair or vice-chair, one district judge, and one municipal judge or justice of the peace shall be members of each panel.

3. Filing and delivery. The formal advisory opinion shall be furnished by personal delivery or ~~[first class]~~ first-class mail to the address provided by the requesting party. The committee shall also file a copy of the opinion with the clerk of the supreme court. All formal advisory opinions shall be numbered and maintained on file at the committee's office, together with all materials considered by the committee in adopting the opinion, and shall be available to any member of the bench or bar upon request. A reasonable charge to defray the costs of reproduction of such opinions and postage may be collected.

4. Limitations. The committee shall not act on requests for opinions when any of the following circumstances exist:

(a) There is a pending state bar or judicial discipline commission complaint, investigation, proceeding, or litigation concerning the subject of the request.

(b) The request constitutes a complaint against a member of the judiciary.

(c) The request involves procedures employed by the judicial discipline commission in processing complaints against judges.

(d) The request involves activities, the propriety of which depends principally on a question of law unrelated to judicial ethics.

(e) Where it is known that the request involves a situation in litigation or concerns threatened litigation or involves the propriety of sanctions within the purview of the courts, such as contempt.

(f) The committee has by majority vote determined that it would be inadvisable to respond to the request and has specified in writing its reasoning to the person who requested the opinion.

5. Confidentiality. Except for the opinions issued by the committee, all meetings, deliberations, materials considered, and work product of the committee shall be confidential.

Rule 6. Recommendations for revision or amendment of canons of judicial conduct and other laws governing judges or judicial candidates. The committee shall study and submit recommendations to the supreme court regarding proposed changes to the Nevada Code ~~for~~ of Judicial Conduct or other laws governing the conduct of judges and judicial candidates.

Rule 7. Immunity. The members of the committee and all staff persons assisting them shall have absolute immunity from civil liability for all acts undertaken in the course of their official duties pursuant to these rules.

TAB 5

Gender Equity, Terms of Office, and Process for Appointment of Commissioners for the Nevada Commission on Judicial Discipline

Judge Tammy M. Riggs
Second Judicial District Court

What is the Problem?

What is the Problem?

- Women are underrepresented on the Nevada Commission on Judicial Discipline.
- Nevada Judiciary:
 - Appellate Bench: 5 Women, 5 Men (50% women)
 - General Jurisdiction: 54 Women, 36 Men (60%)
 - Justice Court: 29 Women, 37 Men (44%)
 - Municipal Court: 11 Women, 19 Men (37%)

Source: Nevada Supreme Court (Administrative Office of the Courts)

What is the Problem?

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 - General Jurisdiction: 54 Women, 36 Men (60%)
 - Justice Court: 29 Women, 37 Men (44%)
 - Municipal Court: 11 Women, 19 Men (37%)
- NCJD:
 - Permanent Panel: 1 Woman (layperson), 6 Men (**14% women**)
 - Alternate Panel: 3 Women (LJ judges), 8 Men (**27%**)

Source: Nevada Commission on Judicial Discipline

Why is This a Problem?

Why is This a Problem?

- There is a perception among some members of the bar, some members of the judiciary, and some members of the public (based on negative press coverage) that women get treated differently in the discipline process than men.
 - TMR opinion: Cases that would otherwise receive private discipline are passing through to the formal complaint/public hearing process for women judges.

Why is This a Problem?

- There is a perception among some members of the bar, some members of the judiciary, and some members of the public (based on negative press coverage) that women get treated differently in the judicial discipline process than men.
 - TMR opinion: Cases that should otherwise receive private discipline are passing through to the formal complaint/public hearing process for women judges.
- This is not a criticism of the integrity of the Commission members, staff, or administration of the NCJD.
 - TMR opinion: This is a matter of difference in fact perception and experience.

What is the Solution?

What is the Solution?

- Appoint more women judges and attorneys (and judges and attorneys from groups traditionally underrepresented in law practice) to the NCJD!

What is the Solution?

- Appoint more women judges and attorneys (and judges and attorneys from groups traditionally underrepresented in law practice) to the NCJD!
- Factoid: Women and underrepresented populations are represented by the lay members and State Bar of Nevada members of the NCJD, respectively.

Authority for the Structure of the Nevada Commission on Judicial Discipline (NCJD)

Authority for the Structure of the Nevada Commission on Judicial Discipline (NCJD) (1)

- Permanent Panel (NV Const. Art. 6, s. 21 (2))
 - 2 District Judges (Appointed by the Nevada Supreme Court)
 - 2 Attorneys (Appointed by the Board of Governors of the State Bar of Nevada)
 - 3 Lay Members of the Community (Appointed by the Governor)
 - Chairman and Vice-Chair are elected by the commissioners from the Lay Members.

Authority for the Structure of the Nevada Commission on Judicial Discipline (NCJD) (2)

- Appointment of JPs and MJs to the NCJD (NRS 1.440 (3))
 - 2 JPs and 2 MJs appointed by the NSC to sit on formal, public proceedings against a JP or MJ, in place of the GJ judges who would otherwise sit.
- Alternate Panel (NRS 1.445 (1), (2))
 - One alternate for each NCJD member; serve where permanent members are unable or conflicted.
 - Municipal judges and Justices of the Peace replace District Judges on public discipline panel where an MJ or JP is the subject of the inquiry.
 - Alternates appointed by same authority who appoints the permanent panel.

Terms and Term Limits

Terms and Term Limits

- The term of each member of the NCJD is 4 years. (NV Const. Art. 6, s. 21 (4))

Terms and Term Limits

- The term of each member of the NCJD is 4 years. (NV Const. Art. 6, s. 21 (4))
- The Nevada Constitution is silent on the issue of term limits and reappointment:
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 - “Except as provided in subdivisions (b) and (c), all terms are for four years. No member shall serve more than two four-year terms, or for more than a total of 10 years if appointed to fill a vacancy.”
- Result: Many members of the NCJD have been reappointed several times.

Nevada Commission on Judicial Discipline Members & Appointment Terms

Commission Members:

Commissioner	Initial Appointment	Reappointment	Reappointment	Reappointment	Reappointment	Reappointment
Karl Armstrong, Esq.	*2001 - 2003	1/2003 - 12/2006	1/2007 - 12/2010	1/2011 - 12/2014	1/2016 - 1/2020	2/2020 - 1/2024
Donald Christensen, Esq.	*11/2013 - 12/2016	*1/2017 - 12/2020	1/2021 - 12/2024			
Honorable Mark Denton	12/2000 - 1/2005	1/2005 - 1/2009	1/2009 - 1/2013	1/2013 - 1/2017	1/2017 - 1/2021	1/2021 - 1/2025
Honorable David Hardy	1/2021 - 1/2023					
Stefanie Humphrey	*1/2015 - 2/2018	2/2018 - 1/2019	1/2019 - 1/2023			
John Krmpotic	*8/2015 - 3/2018	3/2018 - 1/2021	1/2021 - 1/2025			
Gary Vause	1/2009 - 01/2013	1/2013 - 1/2017	1/2017 - 1/2021	1/2021 - 1/2025		

*Term served as *Alternate* Member prior to becoming a *Regular* Member

Nevada Commission on Judicial Discipline Alternate Members & Appointment Terms

Alternate Commission Members:

Alt. Commissioner	Initial Appointment	Reappointment	Reappointment
Honorable Stephen Bishop	1/2019 - 1/2021	1/2021 - 1/2025	
Honorable Richard Glasson	1/2021 - 1/2025		
Honorable Thomas Gregory	1/2019 - 1/2023		
Bill Hammer, Esq.	2/2020 - 1/2024		
Honorable Martin Hastings	7/2017 - 1/2019	1/2019 - 1/2023	
Honorable Dorothy Nash Holmes	1/2015 - 1/2019	1/2019 - 1/2023	
Christopher Laurent, Esq.	2/2020 - 1/2024		
Honorable Kristin Luis	1/2019 - 1/2023		
Joseph Sanford	1/2019 - 1/2023		
Honorable Thomas Stockard	3/2016 - 1/2017	1/2017 - 1/2021	1/2021 - 1/2025
Honorable Natalie Tyrrell	1/2021 - 1/2025		

Process for Appointment

- When the end of NCDJ member's term is near or a vacancy must be filled, the Executive Director of NCDJ informs the appointing authority via letter.
 - The ED provides the language of the controlling authority (NV Const. Art. 6, s. 21; NRS 1.445) BUT...

Process for Appointment

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 - The ED provides the language of the controlling authority (NV Const. Art. 6, s. 21; NRS 1.445) BUT...
 - ED also describes the above tables as a "reappointment schedule."
 - It may not be clear to appointing authorities that they may appoint a different representative to the NCDJ. (They may be only appointing new NCJD members when there is a vacancy.)

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- They do not allow for participation by more women in the discipline process. (Potential new women members “boxed out.”)
- May result in “confirmation bias.”
 - Grand Jury example: Grand Juries sit for limited time.
 - Bias at NCJD not anecdotally observed or statistically verified.

How Can the Chances of Appointing Women to the NCJD be Improved?

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- Awareness of the Issue: The ADKT 0582 Commission can make a finding that gender equity (and diversity in general) on the NCJD are important and should be a goal of the NCJD.

How Can the Chances of Appointing Women to the NCJD be Improved? (1)

- Awareness of the Issue: The ADKT 0582 Commission can make a finding that gender equity (and diversity in general) on the NCJD are important and should be a goal of the NCJD.
- Term Limits: The ADKT0582 Commission can request that a BDR be drafted to require term limits for NCJD members.
 - An amendment to the Nevada Constitution would not be required.
 - NRS 1.440 (Appointment of JPs and MJs to the Commission) and NRS 1.445 (Appointment of Alternates to the Commission) were both promulgated and have been amended several times without a corresponding constitutional amendment.
 - The NV Constitution is also silent on the issue of reappointment, yet we reappoint.

How Can the Chances of Appointing Women to the NCJD be Improved? (2)

- Publication: The ADKT 0582 Commission can advise that openings for the NCJD be publicized by the appointing authorities in state and local bar association publications (State Bar of Nevada, Washoe County Bar Association, Clark County Bar Association, etc.).
- Neutral advice: The ADKT 0582 Commission can advise that “neutral” language be included by the NCJD in advice to appointing authorities that an NCJD member’s term is expiring (i.e, not implying that reappointment is the expectation; presenting the option of selecting a new member as well as reappointment of sitting member), and that the NCJD adopt a policy for doing so.

How Can the Chances of Appointing Women to the NCJD be Improved? (3)

- The ADKT 0582 Commission can advise that an Equity and Inclusion statement be included in advice to appointing authorities that an NCJD member's term is expiring.
 - Ex: The Nevada Commission on Judicial Discipline supports the principles promoted by the State Bar of Nevada's Diversity, Equity, and Inclusion Program. The Commission seeks members who reflect the diversity ("including but not limited to race, ethnicity, gender, gender identity, sexual orientation, age, social class, physical ability or attributes, religious or ethical values system, national origin, and political beliefs") of the people of the State of Nevada, the State Bar of Nevada, and the Nevada Judiciary.

Diversity language source: <https://nvbar.org/for-lawyers/diversity-equity-and-inclusion>

Questions???

TAB 6

Procedural Rules of the Nevada Commission on Judicial Discipline

I. GENERAL PROVISIONS

Rule 1. Scope of Rules.

These rules carry out the obligation of the Nevada Commission on Judicial Discipline to adopt rules of procedure for the conduct of its hearings and other procedural rules necessary to carry out its duties as imposed by Section 21(7) of Article 6 of the Constitution of Nevada.

Rule 2. Definitions.

In these rules, unless the context requires otherwise:

1. "Alternate" means any judge designated by the Nevada Supreme Court to act in place of a specific judicial member of the Commission. "Alternate," when referring to a bar member, means any lawyer designated by the Board of Governors of the State Bar of Nevada to act in place of a specific lawyer member of the Commission. "Alternate," when referring to a lay member, means any lay member designated by the Governor to act in place of a specific lay member of the Commission.
2. "Commission" means the Nevada Commission on Judicial Discipline.
3. "Executive Director" means any person who serves in the administrative capacity as Executive Director of the Commission.
4. ~~"General Counsel" means any person who serves in the capacity of legal advisor to the Commission.~~
5. "Formal Statement of Charges" means the document filed by the designated Prosecuting Officer.
6. "Judicial Misconduct" means commission of any act which is a ground for discipline set forth in NRS 1.4653.
7. "Member" shall include such Alternates who have been seated in any specific meeting, case, or proceeding.
8. ~~"Prosecuting Officer"~~Prosecutor means an attorney designated by the commission to file and prosecute a complaint or a formal statement of charges.
9. "Judge" shall have the meaning as set forth in NRS 1.428.
10. "Reasonable Probability" means a finding by the Commission that there is a reasonable probability the evidence available

for introduction at a formal hearing could clearly and convincingly establish grounds for disciplinary action against the Respondent named in the complaint.

11. "Respondent" means any supreme court justice, appellate court judge, district judge, justice of the peace, or municipal court judge or referee, master, or commissioner who is the subject of any disciplinary or removal proceedings instituted in accordance with these rules.

12. "Service" and "notice" mean service or notice by personal delivery or by registered mail or certified mail, return receipt requested, or by electronic means (email). "Serve" and "notify" have corresponding meanings.

Rule 3. Structure; Meetings; Formal Hearings.

1. A Respondent may not participate as a member of the Commission in any proceeding involving a charge against Respondent.

2. A member of the Commission who cannot serve by reason of disqualification, resignation, inability to attend or any other reason is to be replaced by his or her alternate(s).

3 In the event of such a replacement, an Alternate must act and vote in the place of the absent member. In proceedings against a municipal judge or justice of the peace, ~~within 20 days after service of a Formal Statement of Charges, the Respondent may file a demand with the Commission's clerk, sending a copy to the Chief Justice, requesting that~~ the Nevada Supreme Court shall substitute as judicial members of the Commission judges serving in courts of limited jurisdiction outside the county in which the Respondent presides. ~~3.~~The Commission may be convened by the chairperson or on request of three or more members. Meetings may be held on not less than three (3) days' notice, but this requirement may be waived by consent of all the members.

4. A quorum for the conduct of business other than the hearing and decision of formal disciplinary proceedings is four members. The action of a majority of the members present at any meeting at which a quorum is present is the action of the Commission, except that no Respondent may be censured, temporarily suspended under rule 9, removed or retired from office or punished for contempt, unless five (5) or more members so concur.

5. Commission business requiring approval of the members may be transacted either at an in-person meeting or by telephone, videoconference, electronic mail ("email") or other informal poll of all members appointed, the majority concurring, but if any member objects to such a poll, the matter must be deferred until the next telephonic or in-person meeting.

6. Any member of the Commission or sitting Alternate member may be disqualified upon challenge for cause by the Respondent or by counsel prosecuting a complaint or a Formal Statement of Charges. A challenge must be heard by the Commission, and the Commission may disqualify any commissioner who by reason of ~~4~~ actual or implied bias would, in the opinion of a majority of the members present, either be prevented from adjudicating the matter in a fair and impartial manner or, by reason of facts creating an appearance of impropriety, be prevented from adjudicating the matter in a manner consistent with maintenance of public confidence in the Commission.

7. A challenge for implied bias must be allowed on a showing of any of the grounds relating to jurors which are enumerated in NRS 16.050.

8. No later than 20 days prior to the commencement of a hearing upon a Formal Statement of Charges, counsel appointed to present evidence in support thereof or counsel for the Respondent may exercise a single peremptory challenge to any of the Commission members. The peremptory challenge must be filed in writing with the clerk of the Commission. A formal hearing may proceed before a quorum of five (5) members of the Commission.

9. No member may vote by substitution or proxy.

II. PRIVILEGED COMMUNICATIONS

Rule 4. Privileged Communications. The following are privileged communications and shall not be divulged to any person or court.

1. All communications between the Commission and its staff.

2. All deliberations of the Commission, including all meeting minutes of the Commission.

3. All communications either oral or written between ~~General counsel and/or~~ Executive Director and members of the Commission.

4. All communications between ~~General Counsel or~~ Executive Director and Commission staff, ~~prosecuting officers~~the prosecutor, or Commission investigators.

Rule 5. Violations of the Nevada Code of Judicial Conduct.

Members of the Commission who are judges are subject to disciplinary proceedings before the Commission for violations of the Nevada Code of Judicial Conduct, and are also subject to removal as members of the Commission upon order of the Nevada Supreme Court.

Rule 6. Formal Charges.

Upon the filing of the ~~Formal Statement of Charges~~Complaint, said ~~Statement~~Complaint and other documents later formally filed with the Commission shall be made accessible to the public, and hearings shall be open. The Commission's deliberative sessions and meeting minutes must remain private and shall not be disclosed. The filing of the ~~Formal Statement of Charges~~Compliant does not justify the Commission, its counsel or staff in making public any correspondence, notes, work papers, interview reports, or other evidentiary matter, except at the ~~formal~~ hearing or with explicit consent of the Respondent.

Rule 7. Public Statements by Commission.

In any case in which the subject matter becomes public, through independent sources, or upon a finding of reasonable probability and filing of a ~~Formal Statement of Charges~~Complaint, the Commission may issue statements as it deems appropriate in order to confirm the pendency of the investigation, to clarify the procedural aspects of the disciplinary proceedings, to explain the right of the Respondent to a fair hearing without prejudice, and to state that the Respondent denies the allegations. At all times, however, the Commission, its counsel and staff shall refrain from any public or private discussion about the merits of any pending or impending matter, or discussion which might otherwise prejudice a Respondent's reputation or rights to due process.

II. JURISDICTION AND GROUNDS FOR DISCIPLINE

Rule 8. Grounds for Discipline.

The jurisdiction of the Commission extends to all justices and judges, including senior or part-time judges, and anyone whether

or not a lawyer who is an officer of a judicial system and who performs or formerly performed judicial functions, including an officer such as a magistrate, court commissioner, special master or referee. In the absence of fraud or bad faith occurring in the commission of an act constituting a ground for discipline set forth in NRS 1.4653, the Commission shall take no action against a Judge for making findings of fact, reaching a legal conclusion, expressing views of law or policy in a judicial opinion, or otherwise declaring or applying the law in the course of official duties. The Commission shall not review or base charges upon differences of opinion between Judges as to matters of law, or as to other issues committed to judicial or administrative discretion. Claims of error shall be left to the appellate process, unless supported by evidence of abuse of authority, a disregard for fundamental rights, an intentional disregard of the law, a pattern of legal error, or an action taken for a purpose other than the faithful discharge of judicial duty.

Rule 9. Suspension.

1. The Commission may suspend a Judge from the exercise of the office in accordance with NRS 1.4675 and NRS 1.4677(1).
2. The Commission shall give the Respondent seven (7) days' notice of its intention to suspend. The Judge may submit documents in opposition to suspension which shall be considered by the Commission. The Commission shall hold a public hearing before ordering such a suspension unless the Judge waives the right to the hearing.
3. A Respondent suspended under these rules may appeal to the Nevada Supreme Court.
4. The Commission shall promptly file a certified copy of the notice of suspension with the clerk of the Nevada Supreme Court.

Rule 10. Initiation of Procedure.

1. Except as provided in subsections 2 and 3, initial ~~complaints~~ accusations of Judicial Misconduct must be made in writing upon oath or declaration under penalty of perjury and may be made by the ~~person complaining~~ accuser. Such ~~a complaint~~ an accusation must contain facts which, if true, would establish grounds for discipline as set forth in NRS 1.4653.

2. ~~A complaint~~An accusation may be initiated by information in any form from any source received by the Commission that alleges or from which a reasonable inference can be drawn that a Judge committed misconduct or is incapacitated. If there is no written ~~complaint-accusation~~ from another person, the Executive Director of the Commission may file a complaint.

3. In exceptional circumstances, in which the Commission has substantial reason to believe that ~~a complainant~~an accuser may in likelihood suffer untoward risk of embarrassment, harassment, or other detrimental consequences, the Commission may on request, authorize its Executive Director to sign and swear to ~~a complaint-an accusation~~on information and belief, in the ~~complainant's-accuser's~~ stead.

4. ~~A complaint~~An accusation will be reviewed by Commission staff to ensure that it meets the minimum requirements as required by statute. Except for ~~complaints-accusations~~ filed by the Executive Director, all ~~complaints-accusations~~ shall be sworn or declared under penalty of perjury. ~~Accusations~~Complaints that do not meet the statutory requirements may be dismissed administratively by Commission staff with the Commission subsequently ratifying such administrative dismissals, if appropriate, at its next scheduled Commission meeting.

5. All ~~accusations~~complaints shall be reviewed by the Commission to determine whether they state facts, which if true, establish grounds for discipline as set forth in the Nevada Revised Statutes.

6. The Commission may either dismiss the ~~accusation~~complaint or authorize an investigation.

7. A ~~accuser~~complainant may file a request for reconsideration of a dismissed ~~accusation~~complaint. Unless additional facts are alleged which in the opinion of the General Counsel require reconsideration of the dismissed ~~accusation~~complaint by the Commission, the matter may be dismissed administratively by Commission staff with the Commission ratifying such dismissals, if appropriate, at its next scheduled meeting.

Rule 11. Investigation.

1. The Commission staff may perform minimal investigation as may be necessary to aid the Commission in properly reviewing an accusation~~complaint~~.

2. A full investigation may not commence without Commission authorization.

3. After an investigation is authorized by the Commission, the Executive Director shall hire an investigator or investigators as necessary to properly carry out the duties of the Commission. Once an investigation is authorized, it shall be directed by the Executive Director.

4. Investigations are not limited to the matters raised in the accusation~~complaint~~. Investigations may encompass any matters either raised in the accusation~~complaint~~ or disclosed during the investigative process. When matters that are totally unrelated to the issues raised in the accusation~~complaint~~ are uncovered, they shall not be investigated without first receiving Commission approval.

Rule 12. Determination to Require an Answer.

1. The Commission shall review all reports of the investigation to determine whether there is sufficient reason to require the Respondent to answer. If there is insufficient reason to proceed, the Commission may dismiss an accusation ~~a complaint~~ with or without a letter of caution. A letter of caution is not to be considered an event of discipline. The Commission may take into consideration a dismissal with a letter of caution in subsequent complaints against a Respondent when considering the appropriate discipline to be imposed.

2. If the Commission determines it could in all likelihood make a determination that there is a Reasonable Probability the evidence available for introduction at a formal hearing could clearly and convincingly establish grounds for disciplinary action, it shall require the Respondent named in the accusation~~complaint~~ to respond.

3. The Commission shall serve the accusation~~complaint~~ upon the Respondent who shall have 30 days in which to respond to the accusation~~complaint~~. Failure of the Respondent to answer the accusation~~complaint~~ shall be deemed an admission that the facts alleged in the accusation~~complaint~~ are true and establish grounds for discipline.

4. In preparing to respond to a determination of Reasonable Probability, the Respondent has the right to inspect all records of the Commission relating to the disciplinary action against the Respondent and to be fully advised as to the contents of

such records. Privileged communications and work product of the Commission's counsel are not subject to inspection. To the extent practicable, the Respondent shall be supplied with all records of the Commission subject to inspection along with service of the accusationcomplaint.

5. Amendment of allegations in the accusationcomplaint, prior to a finding of Reasonable Probability, may be permitted by the Commission. The Respondent shall be given notice of any amendments, and additional time as may be necessary to respond to the accusationcomplaint.

6. The commission investigator may compel by subpoena the attendance of witnesses and the production of pertinent books, papers and documents for purposes of investigation. Subpoenas must be issued by the executive director of the commission in the same manner as subpoenas are issued by clerks in the district courts of this state.

Rule 13. Finding of Reasonable Probability.

1. Based upon the accusationcomplaint and all relevant evidence presented in the reports of any investigation conducted by the Commission or referred to in documents and memoranda in the Respondent's response and supporting documents, the Commission shall make a finding of whether there is Reasonable Probability for disciplinary action against the Judge named in the accusationcomplaint.

2. If the Commission makes a finding that such a Reasonable Probability does not exist, the Commission shall dismiss the accusationcomplaint. The Commission may issue a letter of caution accompanying its dismissal.

3. A finding of Reasonable Probability authorizes the Executive Director to designate a Prosecuting Officer who must sign under oath a Formal Statement of ChargesComplaint against the Judge.

V. PROCEDURE AFTER FINDING OF REASONABLE PROBABILITY

Rule 14. Filing of a Complaint~~formal Statement of Charges~~.

If Reasonable Probability is found, a Complaint ~~Formal Statement of Charges~~ shall be filed. The Formal Statement of Charges is a public document, as are other pleadings, motions, challenges, and supporting affidavits subsequently filed. The Complaint ~~Formal Statement of Charges~~ shall be filed with the clerk of the Commission.

Rule 15. Content of ~~Complaint~~Formal Statement of Charges. The ~~Complaint~~ Formal Statement of Charges must contain a clear reference to the specific provisions of statutes, the Nevada Code of Judicial Conduct and the Nevada Constitution which are deemed to justify procedures before the Commission, together with a clear statement of all acts and omissions which are alleged to warrant action by the Commission under those provisions, identifying the dates, times and places to the extent possible that the acts or omissions are alleged to have occurred.

Rule 16. Service of ~~the Complaint~~Formal Statement of Charges. The Respondent shall be served within ten (10) days of filing a copy of the ~~Formal Statement of Charges~~Complaint.

Rule 17. Respondent's Answer. Within 20 days after service of the ~~Formal Statement of Charges~~Complaint, the Respondent shall file with the Commission an original and one copy of an answer. The answer must set forth in ordinary and concise language all denials, affirmative defenses and mitigating factors upon which the Respondent intends to rely at the hearing. The Executive Director may, for good cause, extend the time for Respondent's answer for a period not to exceed 30 additional days. Failure to answer the ~~Complaint~~Formal Statement of Charges shall constitute an admission that the facts alleged in the formal complaint are true and establish grounds for discipline pursuant to NRS1.4653.
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Rule 18. Formal Hearing.

1. When the answer has been filed, a formal hearing shall be scheduled, if practicable, within 60 days unless waived by both the Commission and the Respondent. The Respondent and all counsel must be notified of the time and place of the hearing and must first be consulted concerning the scheduling thereof to accommodate, where possible, the schedules of the Respondent and counsel and those of their witnesses. The proper venue for judicial hearings and proceedings shall be determined by the Commission at its sole discretion.

2. If the Respondent or counsel should fail to appear at the hearing, the respondent shall be deemed to have admitted the factual allegations contained in the formal complaint and shall be deemed to have conceded the merits of the complaint. Absent good cause, the Commission shall not continue or delay

proceedings because of the respondent's or counsel's failure to appear.

3. All documents required or permitted to be filed with the Commission in formal, public cases must strictly comply with the Commission's Public Case Filing Procedures attached hereto as Exhibit "A" and incorporated herein by reference.

Rule 19. Discovery.

1. A. Within ten (10) days after service of the notice of the Commission's Prehearing Order, the Commission and the Respondent shall exchange the following material and information within their possession or control to the extent not previously provided:

(a) The names and addresses of persons who have knowledge of facts relating to the complaint against the Respondent; ~~13~~

(b) Any written or recorded statements made by these persons and the substance of any oral statements claimed to have been made by the Respondent; (

c) Any reports or statements of experts, made in connection with the particular case, including results of physical or mental examinations; and (d) Any books, papers, documents, photographs or tangible objects pertaining to the case.

B. Additional discovery requests shall only be permitted with leave of the Commission.

2. The Commission's and Respondent's obligations under this rule extends to material and information in the possession or control of any persons who, on behalf of the Commission or the Respondent, have participated in any investigation of the charges.

3. If, subsequent to complying with these discovery provisions, the Commission or Respondent discovers additional material or information which is subject to disclosure, the additional material or information must be promptly disclosed.

4. True work product of counsel is not subject to discovery.

Rule 20. Subpoena and Inspection.

The Respondent and Prosecuting Officer ~~or~~ are entitled to compel attendance at the formal hearing of witnesses, including the Respondent, by subpoena, and to provide for the production of

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documents, books, accounts and other records. Subpoenas must be issued by the Executive Director of the Commission in the same manner as subpoenas are issued by clerks in the district courts of this state.

Rule 21. Witnesses. Witnesses are entitled to appear with counsel, who may represent and advise them on matters affecting their rights.

Rule 22. Public Hearing. The formal hearing shall be held in public before the Commission. All testimony must be under oath. All hearings shall be reported verbatim.

Rule 23. Presiding Officer. At the commencement of the hearing, the chairperson shall designate a member of the Commission who is either a Judge or a lawyer to preside at the hearing.

Rule 24. Rules of Evidence and Due Process. The rules of evidence applicable to civil proceedings apply at the hearing, and the Respondent shall be accorded due process of law.

Rule 25. Burden of Proof. ~~Counsel appointed by the Commission~~ ~~to~~ The Prosecutor shall present the evidence against the Respondent ~~have and has~~ the burden of proving, by clear and convincing legal evidence, the facts justifying discipline in conformity with the averments of the ~~Formal Statement of Charges~~ Complaint.

Rule 26. Cross-Examination, Evidence, and Time Restrictions. The Commission and the Respondent are each entitled to present evidence and produce and cross-examine witnesses, subject to the rules of evidence applicable to civil proceedings. The Commission may limit the time each party is allowed to present evidence.

Rule 27. Order of Dismissal. If the Commission determines either that the charges against the Respondent have not been proven by clear and convincing evidence, or that discipline is not warranted in light of facts made to appear in mitigation or avoidance, it shall forthwith prepare and file its order publicly dismissing the ~~charges-Complaint.against the Respondent~~. Any sitting member of the Commission who does not agree with the order, which has been approved by other Commission members, must be allowed ten (10) days in which to prepare and sign a concurring or dissenting opinion. All orders and opinions shall be 15 concurrently filed.

Rule 28. Decision to Discipline.

1. Within 20 days after reaching a decision that discipline should be imposed, the Commission shall prepare and adopt a written statement of the nature of the proceeding, findings of fact, and conclusions of law on the issues presented by the ~~Formal Statement of Charges~~ Complaint and the answer thereto, if any. The Commission may include in its decision a summary of evidence admitted. When the foregoing have been formulated, any sitting Commission member who wishes to dissent or protest shall be allowed ten (10) days for that purpose. Upon filing, the Commission must promptly serve a copy of the foregoing on the Respondent.

2. Upon adoption and filing of a decision which orders the censure, removal, retirement or other discipline of a Respondent, the Commission must file a certified copy of the decision with the clerk of the Nevada Supreme Court. Rule 29. Consent Orders. Upon written consent of the Respondent, the Commission may order the Respondent's censure, removal, retirement, or other discipline at any stage of the proceedings either prior to or following a determination of Reasonable Probability and the filing of a ~~Formal Statement of Charges~~ Complaint, unless waived by Respondent, and such Orders take effect immediately. All such Consent Orders shall contain the allegations and charges that would be set forth in a ~~Formal Statement of Charges~~ Complaint had one been filed. A certified copy of the Order must be filed with the Clerk of the Nevada Supreme Court and a copy of the Order must be served on the Respondent and placed on the website of the Commission.

VI. MENTAL OR PHYSICAL DISABILITY

Rule 30. Disability. Complaints of mental or physical disability must be made in writing and may be made by any person. Such a complaint must contain facts, which, if true, would justify retirement of a respondent who is disabled in the manner defined in the Nevada Revised Statutes.

Rule 31. Procedure for Carrying Out Responsibilities Regarding Physical or Mental Disability.

1. The same procedures as are employed with respect to discipline for Judicial Misconduct shall be followed by the Commission in regard to physical or mental disability. A ~~Formal Statement of Charges~~ Complaint filed after a determination of

Reasonable Probability must be under oath. All conduct or omissions relied upon must be alleged with particularity, and must show a substantial disability which is likely to be permanent.

2. If ~~a complaint~~ an accusation received by the Commission alleges that a Judge is incapacitated, and the Commission determines after conducting an investigation that there is Reasonable Probability to file a formal complaint, the Commission shall attempt to resolve the matter informally.

3. The Commission may request the Respondent to submit to medical, psychiatric, or psychological testing by a physician selected by the Commission who is licensed to practice medicine in the State of Nevada.

4. If the Commission is unable to resolve the matter informally, and the Judge has not retained counsel at his or her own expense, the Commission shall appoint an attorney to represent the Judge at public expense.

5. Should a Respondent deny all or part of the charges contained in the complaint alleging incapacity, it shall be deemed to be consent on the part of the Respondent to submit to medical, psychiatric or psychological testing by a physician selected by the Commission who is licensed to practice medicine in the State of Nevada.

6. The doctor-patient relationship shall not apply with regard to the findings of the medical practitioner designated by the Commission whose report must be furnished to the Commission and the Respondent. The findings of a physician appointed by the Commission are not privileged communications.

7. Unless the Commission excludes them, after notice and hearing, upon a showing that they have interfered with the orderly conduct of the examination, the Respondent is entitled to have counsel and a medical expert of the Respondent's choice present during all phases of any examination ordered by the Commission.

8. A Respondent who retires during the pendency of an involuntary retirement proceedings shall be deemed to have retired voluntarily.

Rule 32. Effect of Denial. When there is a denial of a ~~Formal Statement of Complaint Charges~~ relating to the physical or mental

condition of the Respondent, by such denial the Respondent must be deemed to have consented to a physical or mental examination by a qualified medical practitioner designated by the Commission.

VII. REFERRAL; APPEAL

Rule 33. Referral. Whenever a Respondent is removed or retired on grounds which reflect unfavorably on the Respondent's fitness to practice law in Nevada, the Commission shall refer relevant information and evidentiary matter to the State Bar of Nevada.

Rule 34. Appeal. 1. A Respondent may appeal an order of censure, removal, retirement, or other discipline to the Nevada Supreme Court in accordance with rules adopted by the Nevada Supreme Court in regard thereto.

2. An appeal shall be taken by filing a notice of appeal with the clerk of the Commission within fifteen (15) days after service on the Respondent of the Commission's formal order of censure, removal, retirement, public reprimand or other discipline together with its formal findings of fact and conclusions of law.

3. Respondent may request all or a part of the transcript within ten (10) days after filing of a notice of appeal. The written request shall be filed with the clerk of the Commission who shall order the transcript prepared.

4. The cost of the transcript shall be assessed to the Respondent when a final decision in discipline proceedings is adverse.

VIII. ADMINISTRATIVE PROVISIONS

Rule 35. Expenses, Costs and Fees.

1. Witnesses may be entitled to fees and mileage allowances in accordance with the Nevada Rules of Civil Procedure.

(a) In the event that Respondent is disciplined by the Commission, the Commission may recover from Respondent any incurred fees and mileage allowances of, and costs of services upon, witnesses ordered by the Respondent.

(b) No Judge or attorney employed by the State of Nevada or its subdivisions may be allowed any fees for attending as a witness.

Rule 36. Amendments and Supplemental Rules.

1. The Commission may amend and supplement these rules as it deems necessary.

2. The Commission may adopt procedures for its internal operations which are 19 consistent with these rules and appropriate to its function.

Rule 37. Computation of Time. Time limitations in these rules shall be computed as in the Nevada Rules of Civil Procedure and the Nevada Rules of Appellate Procedure, except that three (3) days shall not be added to the prescribed period for any notice or paper served upon a party by electronic means (email).

TOP RULE CHANGES
For Procedural Rules of the
Nevada Commission on Judicial Discipline

Rule 12 – Amend rule to REQUIRE Commission to provide copy of complaint and all corresponding documents to Respondent prior to scheduling an interview or providing any answer.

Rule 16 – Amend rule to REQUIRE Commission to set the hearing at a time that is **mutually agreed upon by the parties and the Commission.**

Rule 16 (cont.) – Amend rule to state that **proper venue shall be the jurisdiction where the alleged misconduct occurred.**

New Rule – To permit electronic testimony at the discretion of the parties.

New Rule - To establish a time limit for the Commission to rule on pre-hearing motions, at least 14 days prior to the date of hearing. Pre-hearing motions should be afforded oral argument in public unless the parties stipulate otherwise. The rule should also provide that the Commission and parties can appear remotely.

Rule 26 – This rule should be amended to require the Commission to consult with both parties as to how much time each party will require to present their case. Each party should be allowed the amount of time requested to present their case and the Commission can hold them to it.

Rule 4 – This rule should be more narrowly tailored, especially with respect to subsection 4. Essentially the investigator, prosecutor, and judge/jury can have unlimited communication outside the presence of Respondent and Respondent’s counsel and it will all be considered “privileged”???

Rule 6 – There is a lack of transparency on the part of the Commission. This rule should be amended to **require** the Commission **to post on their website** the Formal Statement of Charges and any other documents subsequently filed, as well as any decisions issued by the Supreme Court. The current rule only states that documents “shall be made accessible to the public”. Their website actually states in capital letters that “ALL DOCUMENTS ARE POSTED ON THE COMMISSION WEBSITE”. However, this is completely false.

Rule 27 – This rule should be amended to require the Commission to post an Order of Dismissal **on the Commission’s website** in addition to filing it with the Clerk of the Nevada Supreme Court.

Rule 3.6 – Disqualification of a Commission member or alternate. The Commission currently rules on a motion to disqualify pursuant to a challenge for cause. This motion should be heard by a disinterested third party.

Possible Changes To:
**Procedural Rules of the
Nevada Commission on Judicial Discipline**

Rule 4. Privileged Communications.

Rule 4 makes essentially everything possible a “privileged” communication and therefore not to be divulged to any person or court.

NRS 1.4695 provides that “The Commission shall adopt rules to establish the status of a particular communication related to a disciplinary proceeding as privileged or nonprivileged.”

This rule should be more narrowly tailored, especially with respect to subsection 4 of Rule 4. “All communications between General Counsel or Executive Director and Commission staff, prosecuting officers, or Commission investigators.”

Essentially, the investigator, prosecutor, and judge/jury can have unlimited communication and it will all be considered privileged??

Rule 6. Formal Charges.

“Upon the filing of the Formal Statement of Charges, said Statement and other documents later formally filed with the Commission shall be made accessible to the public, and hearings shall be open....”

This rule should be amended to require the Commission **to post on their website** the FSOC and any other documents filed subsequently, either with the Commission or with any court. The Commission currently sidesteps this rule by taking the position that anyone can “contact” the Commission and request documents that have been filed and that is how they are made accessible to the public. But the public generally doesn’t know that documents exist aside from the documents that the Commission chooses to post on their website. The mission of the Commission is to protect the public, yet they routinely hide matters from the public that do not reflect the Commission in a favorable light, i.e., a dismissal of a FSOC, an adverse ruling by the Supreme Court, pre-hearing motions, etc. Additionally, the Commission removes documents from their website at their own

discretion. Once documents are posted on the website, they should not be permitted to be removed.

Rule 6 (Continued).

“The Commission’s deliberative sessions and meeting minutes must remain private and shall not be disclosed”

This portion of the rule should be amended to require that **meeting minutes** should be made public and posted on their website. This is a publicly funded body and should not be permitted to operate in total secrecy.

Rule 10. Initiation of Procedure.

4. “A complaint will be reviewed by Commission staff to ensure that it meets the minimum requirements as required by statute.”

Who is the Commission staff that reviews the complaints? What are the objective criteria or checklist for said review?

5. “All complaints shall be reviewed by the Commission to determine whether they state facts, which if true, establish grounds for discipline as set forth in the Nevada Revised Statutes.”

Are these the complaints that have passed the review for minimum requirements?

Rule 12. Determination to Require an Answer.

4. “In preparing to respond to a determination of Reasonable Probability, the Respondent has the right to inspect all records of the Commission relating to the disciplinary action against the Respondent and to be fully advised as to the contents of such records...To the extent practicable, the Respondent shall be supplied with all records of the Commission subject to inspection along with service of the complaint.”

This rule should be amended to **require** the Commission to **provide a copy of the complaint and all corresponding documents** to the respondent **prior to any**

response or interview. The Commission frequently refuses to produce a copy of a complaint prior to an interview of a respondent.

Rule 14. Filing of Formal Statement of Charges.

“...The Formal Statement of Charges is a public document, as are other pleadings, motions, challenges, and supporting affidavits subsequently filed...”

This rule should be amended to **require** the Commission to **post on their website all of the documents listed above.** Currently, the Commission only posts what they want to post despite the fact that their website states in all capital letters **“ALL DOCUMENTS ARE POSTED ON THE COMMISSION WEBSITE”.**

Rule 16. Formal Hearing.

“...The Respondent and all counsel must be notified of the time and place of the hearing and must first be consulted concerning the scheduling thereof to accommodate, where possible, the schedules of the Respondent and counsel and those of their witnesses.”

This rule should be amended to require the Commission to set the hearing at a **time that is mutually agreed upon by the parties and the Commission.**

Historically, there has been no input allowed on the part of Respondent and his/her counsel as to scheduling.

Rule 16 (cont.)

“...The proper venue for judicial hearings and proceedings shall be determined by the Commission at its sole discretion.’

This rule should be amended to state that the **proper venue shall be the jurisdiction where the alleged misconduct occurred.**

NRS 1.462 provides that the Nevada Rules of Civil Procedure apply after a Formal Statement of Charges has been filed.

NRS 13.020 is instructive as to venue. Judicial officers should be treated the same as “public officers”. NRS 13.020 provides in pertinent part as follows: “Actions for the following causes must be tried in the county where the cause, or some part

thereof, arose..., 3. Against a public officer, or person especially appointed to execute the duties of a public officer, for an act done by him or her in virtue of the office, or against a person who, by his or her command, or in his or her aid, does anything touching the duties of the officer.”

Historically, Motions For Change of Venue are routinely denied.

Nor has Electronic Testimony been permitted. The rules should be amended to permit electronic testimony at the discretion of either party.

Rule 24. Rules of Evidence and Due Process.

What is the remedy if the procedural rules of the Commission conflict with the Nevada Rules of Civil Procedure?

Example 1 – Venue? See NRS 13.020.

Example 2 – Interrogatories? See Rules 26 and 33 of the Nevada Rules of Civil Procedure.

The Commission promulgates Interrogatories and compels an Answer **PRIOR** to the filing of Formal Statement of Charges. This is completely contrary to NRCPC 26(a) that provides that Interrogatories are due once discovery is opened upon the filing of a complaint. It is also contrary to the holding in Melanie Andress-Tobiasson v. Nevada Commission on Judicial Discipline, No. 77551, wherein the Supreme Court granted a Writ of Prohibition preventing the Nevada Commission on Judicial Discipline from requiring a judge to answer written questions under oath before a formal statement of charges has been filed.

Example 3 – Pre-Hearing Motions? There is currently no time limit for the Commission to rule on pre-hearing motions thereby depriving the Respondent the opportunity to appropriately prepare for hearing.

The current practice is to rule on pre-hearing motions immediately prior to the start of the hearing. The Commission should be required to rule on these Motions at least 14 days prior to the date of the hearing.

Rule 26. Cross-Examination, Evidence, and Time Restrictions. “...The Commission may limit the time each party is allowed to present evidence.”

This rule is applied completely arbitrarily. A Scheduling Order is signed by the Presiding Commissioner that informs the parties of how much time will be allotted to each side to present evidence. There is no input sought from the Respondent as to how much time is needed to present evidence. It is believed that the Prosecuting Officer advises the Commission as to how much time is needed to present evidence. And the Commission automatically provides the same amount of time to the Respondent without consulting the Respondent. A defense frequently requires more time to present.

This rule should be amended to require the Commission to consult with both parties as to how much time each party will require to present their case. Each party should be allowed the amount of time requested to present their case and the Commission can hold them to it.

Rule 27. Order of Dismissal.

An Order of Dismissal should be filed with the Clerk of the Nevada Supreme Court and **posted on the Commission's website.**