

Summary of Meeting with Judges Riggs, Higgins, and Bateman with Executive Director Paul Deyhle of the Nevada Judicial Discipline Commission

- 1) We briefly discussed whether we should establish, under the auspices of the ADKT 0598 Commission, a working group to determine how to best enforce the Judicial Canons during campaigns regarding the conduct of challengers. We discussed whether this should include members of board of the State Bar of Nevada and a representative from the Secretary of State's office. Since this conversation, Judge Bateman has contacted the State Bar and they have zero experience in this area. We had a consensus that this is an issue that has been brewing since the Article 6 commission issued its findings, but no work appears to have been done on it since then. The solution would appear to be best accomplished by an amendment to the Canons of Judicial Conduct. Perhaps this would be included in a broader review of the Canons through a new Article 6 Commission.
- 2) Bifurcation. Mr. Deyhle remains averse to this, and says that, based on prior discussions, the NCJD firmly believes that a constitutional amendment would be required to impose this upon the Commission. However, he did seem somewhat open to our arguments that partial bifurcation already exists, and that he could accomplish this with the alternate members who are already part of the Commission. He seemed to be more receptive to this idea after Judge Higgins proposed that judges could testify at the legislature on behalf of an increased budget for NCJD in order to accomplish this goal. We ended with an agreement by MR. Deyhle that he would present the idea of "voluntary" bifurcation to the voting members of the NCJD.
- 3) Request to change the current designation of the "prosecuting attorney" to "special counsel." Mr. Deyhle agreed with this recommendation. This will require an amendment to NCJD Procedural Rule 2.8. He agreed to recommend this change to the Commission. Pursuant to NRS 1.4295.
- 4) Term Limits. No agreement was reached.
- 5) Proposed changes to the Procedural Rules of the Nevada Commission on Judicial Discipline.
 - a. Rule 6: Proposal for posting supporting documents on the NCJD website within 48 hours of filing formal charges, pleadings, and decisions of the Commission. Mr. Deyhle indicated that the NCJD has little to no control over the functionality of their website, as it is apparently maintained by some other State agency. Changing this may require additional budgetary resources.

- b. Rule 12.1: Provision requiring that the Commission provide a copy of the original complaint and all corresponding documents to the Respondent prior to scheduling an interview or requiring an Answer. Mr. Deyhle says the NCJD already does this pursuant to Procedural Rule 12.4.
 - c. Rule 18: requiring the venue for the hearings and proceedings to be in the venue where the alleged misconduct occurred. Mr. Deyhle agreed that a North/South division for venue is appropriate with hearings in Reno and Las Vegas but opposed requiring hearings to be held in the rural counties due to budget issues.
 - d. Rule 26: requiring that defending parties be consulted regarding the time required for presentation of their case and be allowed that amount of time. Mr. Deyhle considers this problematic.
 - e. Rule 27: requiring dismissals of charges to be filed with the NSC and posted on the NCJD website within 48 hours. Mr. Deyhle requested that we hold this request for our next meeting.
 - f. Requested new rule: Permitting electronic testimony of witnesses. Mr. Deyhle agreed to this provision as long as the Commission retains discretion and that good cause be shown why a witness cannot personally appear.
 - g. Requested new rule: Commission to rule on all pre-hearing motions at least 14 calendar days prior to a disciplinary hearing, and that pre-hearing motions be afforded a public oral argument unless otherwise stipulated between the parties (with electronic appearance by parties and witnesses permitted). Mr. Deyhle said that motions are decided in advance unless the motions themselves are filed late. We discussed time limits for pretrial motions that would allow the Commission to decide all pending motions well before the hearing. We also discussed the possibility of the Commission meeting over Zoom to resolve pretrial motions rather than waiting to meet in person.
- 6) We left with an agreement to meet again, with Paul observing that he thought that the discussion was productive. He also made it clear that he would discuss the proposed rule changes with the Commission and while he could make recommendations, the final decision is up to them.

PROPOSED RULE CHANGES
For Procedural Rules of the
Nevada Commission on Judicial Discipline

Rule 6 Replace “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” with **“Upon the filing of the Formal Statement of Charges, said Statement and other documents and pleadings later formally filed with the Commission shall be posted on the website within forty-eight (48) hours of filing. Said documents shall also include any pleadings filed before the Supreme Court of Nevada as well as any decisions by the Supreme Court of Nevada within forty-eight (48) hours of filing and/or publication”**.

Rule 12.1 ...**The Commission shall provide a copy of the complaint and all corresponding documents to the Respondent prior to scheduling an interview or providing an Answer.**

Rule 18 Replace “The Respondent and all counsel must be notified of the time and place of 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” with **“The hearing shall be scheduled at a time that is mutually agreed upon by the parties and the Commission”**.

Rule 18 Replace “The proper venue for judicial hearings and proceedings shall be determined by the Commission at its sole discretion” with **“The proper venue for judicial hearings and proceedings shall be the jurisdiction where the alleged misconduct occurred”**.

Rule 26 Replace “The Commission may limit the time each party is allowed to present evidence” with **“The Commission shall inquire of each party how much time will be required to present their case. Each party shall be allowed the amount of time requested to present their case”**.

Rule 27 Replace ...”it shall forthwith prepare and file its order publicly dismissing the charges against the Respondent” with **“it shall forthwith prepare and file its order with the Supreme Court of Nevada publicly dismissing the**

charges against the Respondent. Said Order of Dismissal shall also be published on the Commission's website within forty-eight (48) hours of filing.

NEW RULE: Electronic testimony of witnesses shall be permitted at the discretion of the parties.

NEW RULE: The Commission shall rule on all pre-hearing motions at least 14 calendar days prior to hearing. Pre-hearing motions shall be afforded oral argument in public unless the parties stipulate otherwise. The parties and Commission members shall be permitted to appear remotely for any pre-hearing motions.