



BEFORE THE NEVADA COMMISSION ON JUDICIAL DISCIPLINE

In the Matter of  
2024 AMENDMENTS TO COMMISSION  
PROCEDURAL RULES

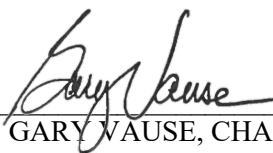
**ORDER INVITING PUBLIC COMMENT**

The Nevada Commission on Judicial Discipline (“Commission”) has undertaken a comprehensive review of its Procedural Rules since their initial adoption from the Nevada Supreme Court in 2003, and in response to the Final Recommendations of the Nevada Supreme Court’s *Commission to Study the Statutes and Rules Governing the Commission on Judicial Discipline* filed on April 19, 2023. In September 2024, the Commission approved the amendments contained in Exhibit A (clean) and Exhibit B (redline), which are available on the Commission’s website located at <https://judicial.nv.gov>.

The Commission invites written comment from the bench, bar and public regarding the amendments to the Commission’s Procedural Rules. Comments may be submitted electronically or in hard-copy format to: Nevada Commission on Judicial Discipline, P.O. Box 18123, Reno, Nevada 89511 or [NCJDinfo@judicial.nv.gov](mailto:NCJDinfo@judicial.nv.gov) by 5:00 p.m., November 4, 2024.

It is so ORDERED.

DATED: October 4, 2024

  
GARY WAUSE, CHAIRMAN

- cc: Richard Dreitzer, President, State Bar of Nevada
- Kimberly Farmer, Executive Director, State Bar of Nevada
- All Supreme Court Justices
- All Court of Appeal Judges
- All District Court Judges
- All Justices of the Peace
- First Judicial District Bar Association
- Clark County Bar Association
- Douglas County Bar Association
- Elko County Bar Association
- Incline Village Bar Association
- Washoe County Bar Association
- Administrative Office of the Courts

# EXHIBIT A

# **Procedural Rules of the Nevada Commission on Judicial Discipline**

## **I. GENERAL PROVISIONS**

**Rule 1. Scope and Citation of Procedural Rules.** The Nevada Commission on Judicial Discipline adopts these rules for conducting its proceedings and hearings and carrying out its duties pursuant to Section 21(7) of Article 6 of the Constitution of the State of Nevada. These rules may be referred to as the Procedural Rules of the Nevada Commission on Judicial Discipline and cited as “PRJDC”.

**Rule 2. Definitions.** In these rules, unless the context requires otherwise:

2.1 “Alternate” means any judge designated by the Nevada Supreme Court to act in place of a specific judicial Commission member, any lawyer designated by the Board of Governors of the State Bar of Nevada to act in place of a specific lawyer Commission member and any lay person designated by the Governor to act in place of a specific lay Commission member.

2.2 “Commission” means the Nevada Commission on Judicial Discipline.

2.3 “Executive director” means any person who serves as the Commission’s executive director.

2.4 “Commission counsel” means any person who serves as the Commission’s legal advisor.

2.5 “Formal statement of charges” means a document filed by the designated special counsel setting forth the specific acts of judicial misconduct or incapacity pursuant to NRS 1.4267.

2.6 "Judicial misconduct" means commission of any act which is grounds for discipline pursuant to NRS 1.4653.

2.7 "Member" includes all judicial, lawyer and lay Commission members, including alternates, who have been seated in any specific meeting, case, or proceeding.

2.8 "Special counsel" means an attorney designated by the Commission to file and prosecute a formal statement of charges, or perform other tasks as directed by the Commission pursuant to NRS 1.4663.

2.9 "Judge" shall have the meaning set forth in NRS 1.428. The Commission will refer to a judge who is the subject of disciplinary or removal proceedings as the respondent, or other appropriate designation, in public filings, decisions, and orders.

2.10 "Reasonable probability" means the Commission's finding 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 judge named in the complaint.

2.11 "Service" and "notice" mean service and notice as provided in these rules or, if silent, the Nevada Rules of Civil Procedure ("NRCP") unless the application of a particular rule is clearly impracticable, inappropriate, or inconsistent with the functions of the Commission. "Serve" and "notify" have corresponding meanings.

2.12 "Shall" is mandatory and "may" is permissive.

### **Rule 3. Structure; Meetings; Formal Hearings.**

3.1 A judge shall not participate as a Commission member in any proceeding involving a charge against the judge.

3.2 An alternate will replace a Commission member who cannot serve by reason

of disqualification, resignation, inability to attend or any other reason and will act and vote in the place of the absent member.

3.3 The Commission chairperson or three or more members may convene the Commission and hold meetings with at least three days' notice unless all members agree to less notice.

3.4 Quorum

A. Normal Commission Business. A quorum for conducting normal Commission business other than public hearings and decisions of formal disciplinary proceedings is four members. The action of a majority of Commission members present shall be the action of the Commission.

B. Public Hearings and Decisions of Formal Disciplinary Proceedings. Public hearings and decisions of formal disciplinary proceedings shall proceed with a quorum of seven Commission members unless a Commission member and its alternate have been disqualified pursuant to PRJDC 38.4, or are unavailable to participate, and there are no other available alternate Commission members. The minimum quorum permitted shall be no less than five Commission members. The action of four or more members present is the action of the Commission, except that no judge shall be censured, temporarily suspended under PRJDC 9, removed or retired from office or punished for contempt, unless five or more Commission members concur.

5. The Commission may transact business either at in-person meetings or by telephone, videoconference, or email of all members appointed, the majority concurring, but if any member objects to transacting business by email, the matter must be deferred until the next in-person, telephonic or videoconference meeting.

6. No member may vote by substitution or proxy.

## **II. PRIVILEGED COMMUNICATIONS**

**Rule 4. Privileged Communications.** The following are privileged communications pursuant to NRS 1.4695 and shall not be divulged to any person or court.

4.1 All oral and written communications between Commission counsel, the executive director, Commission staff and Commission members.

4.2 The Commission's deliberations, including all meeting minutes.

4.3 All oral and written communications between Commission counsel and Commission investigators.

4.4 All oral and written communications between Commission investigators and special counsel made prior to the filing of formal (or amended) statement of charges.

4.5 All oral and written communications between Commission counsel and special counsel made prior to the filing of formal (or amended) statement of charges, or communications involving settlement discussions either prior to or after the filing of formal statement of charges.

4.6 Nothing in these rules shall authorize the discovery or disclosure of any writing or thing that is privileged or confidential nor shall these rules be construed to otherwise limit the attorney-client or work product privileges of the Commission or its counsel.

**Rule 5. Violations of the Revised Nevada Code of Judicial Conduct.** The Commission's judicial members are subject to disciplinary proceedings before the Commission for violations of the Revised Nevada Code of Judicial Conduct and are subject to removal from the Commission upon order of the Nevada Supreme Court.

**Rule 6. Formal Charges.** Upon the special counsel's filing of the formal statement of charges against a judge, the Commission will make the formal statement of charges, and other documents later formally filed with the Commission, accessible to the public upon request and will hold public hearings. Subject to the Commission website's technical, functional and storage capabilities as administered by the Department of Administration, the Commission shall post the formal statement of charges and other documents later formally filed with the Commission, including any Nevada Supreme Court pleadings and decisions in connection with the proceeding, within forty-eight hours of filing or publication. The Commission's deliberative sessions and meeting minutes must remain confidential and will not be disclosed. Formal charges against a judge do not justify the Commission, its counsel or staff to make public any correspondence, notes, work papers, interview reports, or other evidentiary matter, except at a public hearing or with the judge's express consent.

**Rule 7.** [Reserved]

### **III. JURISDICTION AND GROUNDS FOR SUSPENSION**

**Rule 8. Jurisdiction.**

8.1 The Commission's personal jurisdiction extends to all judges pursuant to NRS 1.428, including senior or part-time judges, and anyone who is a judicial officer and performs or formerly performed judicial functions, including, but not limited to, magistrates, court commissioners, special masters or referees.

8.2 The Commission's subject matter jurisdiction extends to the fullest amount authorized by the constitution and statutes of the State of Nevada.

## **Rule 9. Suspension.**

9.1 The Commission may suspend a judge from judicial office in accordance with NRS 1.4675 and NRS 1.4677(1).

9.2 The Commission shall provide the judge seven days' notice of its intention to suspend following a public hearing. The judge may respond in writing to the Commission prior to the public hearing or at the public hearing either personally or through counsel.

9.3 The Commission shall hold a public hearing before ordering such a suspension unless the judge waives the hearing.

9.4 A judge suspended under these rules may appeal to the Nevada Supreme Court.

9.5 If the Commission decides to suspend a judge, the Commission shall promptly file a certified copy of an order of suspension with the Nevada Supreme Court.

9.6 Within sixty days after the Commission's decision to suspend a judge pursuant to NRS 1.4675 and these rules, the Commission shall:

- A. Have a formal statement of charges filed against the judge;
- B. Enter into a deferred discipline agreement with the judge pursuant to NRS 1.468; or
- C. Rescind the suspension. If the suspension was mandatory pursuant to NRS 1.4675(1)(a), and the circumstances mandating suspension still exist after sixty days, the Commission must reinstate the suspension immediately without a public hearing.



#### **IV. PROCEDURE IN CASES OF JUDICIAL MISCONDUCT PRIOR TO FINDING OF REASONABLE PROBABILITY**

##### **Rule 10. Initiation of Procedure.**

10.1 Complaints by Public. Complaints may be made by anyone and in accordance with these rules.

10.2 Complaints by Executive Director. The executive director may initiate a complaint when directed by the Commission if:

A. The Commission receives information in any form or from any source that alleges objectively verifiable evidence from which a reasonable inference can be drawn that a judge committed judicial misconduct or is incapacitated; or

B. The Commission has reason to believe a complainant may suffer untoward risk of embarrassment, harassment, or other detrimental consequences.

10.3 Form of Complaint. Except as provided by PRJDC 10.2, complaints must be in writing, sworn to under oath or affirmation under penalty of perjury, filed on the Commission's form located on its website, bear the complainant's original signature and sent via U.S. mail. Complaints filed by the executive director at the Commission's direction must be made in writing and sworn to under information and belief.

10.4 Contents of Complaint. Complaints must allege specific facts which, if true, establish grounds for discipline or incapacitation as set forth in NRS 1.4653.

A. For the purposes of this rule, "specific facts" mean, but are not limited to, the date, time and location of the alleged judicial misconduct or incapacity and a clear and concise statement of the facts or circumstances surrounding the alleged judicial

misconduct or incapacitation.

B. For the purposes of this rule, “specific facts” do not mean bare allegations or conclusions that a judge committed judicial misconduct or is incapacitated.

10.5 Administrative Dismissal of Complaints. Commission staff may dismiss a complaint administratively if:

A. The Commission does not have jurisdiction over the individual named in the complaint;

B. The Commission does not have jurisdiction over the alleged act(s) of judicial misconduct or incapacitation; or

C. The complaint does not comply with the law or conform to PRJDC 10.3 and 10.4, including the Commission’s complaint form located on its website.

The Commission must review and decide whether to ratify all administratively dismissed complaints at a meeting.

10.6 Initial Review of Complaint by Commission. The Commission must review all complaints to determine whether they allege objectively verifiable evidence from which a reasonable inference could be drawn that a judge committed judicial misconduct or is incapacitated.

A. If the Commission determines a complaint does contain such allegations, the Commission shall authorize further investigation.

B. If the Commission determines a complaint does not contain such allegations, the Commission shall dismiss the complaint with or without a letter of caution.

**Rule 11. Investigation.**

11.1 Commission staff may perform preliminary investigation to aid the

Commission in reviewing a complaint.

11.2 A full investigation shall not commence without Commission authorization.

11.3 After the Commission authorizes an investigation, the executive director shall hire an investigator or investigators as necessary and direct the investigation to carry out the Commission's duties.

11.4 Investigations may encompass any matters either raised in the complaint or disclosed during the investigative process; however, when matters wholly unrelated to the complaint are uncovered, they shall not be investigated without Commission approval.

11.5 Prior to scheduling an investigative interview with a judge, the Commission investigator shall provide a judge a brief description of the issues being investigated and relevant case numbers.

11.6 The Commission investigator may compel by subpoena the attendance of witnesses and the production of documents, books, accounts and other records for purposes of investigation. The Commission clerk shall prepare subpoenas based on the Commission investigator's written request and information. All subpoenas must be issued by the Commission's executive director. The Commission investigator shall file proofs of service with the Commission with a statement certified by the server showing the date and manner of service and the names of the persons served.

## **Rule 12. Determination to Require Judge to Respond to Complaint.**

12.1 The Commission shall review all investigation reports to determine whether there is sufficient reason to require the judge to respond to a complaint. If there is insufficient reason to proceed, the Commission may dismiss a complaint with or without a letter of caution.

12.2 If the Commission determines 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 named in the complaint to respond.

12.3 The Commission shall serve the complaint on the judge via certified mail, overnight third-party commercial carrier or any other method authorized by PRJDC 38.1(B), with thirty days to respond. The judge's failure to respond shall constitute an admission that the facts alleged in the complaint are true and establish grounds for discipline pursuant to NRS 1.4653.

12.4 In responding to a determination of reasonable probability, the judge has the right to inspect the Commission's records relating to the disciplinary action against the judge and to be fully notified as to the contents of such records. Privileged communications and work product of the Commission's executive director and Commission counsel are not subject to inspection. To the extent practicable, the judge shall be supplied with all records of the Commission subject to inspection along with service of the complaint.

12.5 The Commission may allow amendments to the allegations in the complaint prior to a finding of reasonable probability and shall give the judge notice of any amendments and additional time to respond to the complaint.

### **Rule 13. Finding of Reasonable Probability Following Judge's Response**

13.1 Based on the complaint, the investigation reports and the judge's documents and memoranda in response, the Commission shall make a finding of whether there is reasonable probability for disciplinary action against the judge named in the complaint.

13.2 If the Commission makes a finding that such a reasonable probability does not exist, the Commission shall dismiss the complaint with or without a letter of caution.

13.3 Pursuant to NRS 1.467(5), a finding of reasonable probability authorizes the Commission to designate a special counsel to file a formal statement of charges against the judge.

## **V. PROCEDURE AFTER FINDING OF REASONABLE PROBABILITY**

**Rule 14. Filing of Formal Statement of Charges.** The formal statement of charges and subsequent pleadings, motions, challenges, and supporting affidavits are public documents. The special counsel must file the formal statement of charges under oath with the Commission clerk.

**Rule 15. Content of Formal Statement of Charges.** The formal statement of charges must reference the relevant provisions of the Nevada Revised Statutes, the Revised Nevada Code of Judicial Conduct and the Nevada Constitution and provide a clear statement of all acts and omissions which are alleged to warrant action by the Commission.

**Rule 16. Service of Formal Statement of Charges.** The judge shall be served with a copy of the formal statement of charges.

**Rule 17. Answer.** Within twenty days after service of the formal statement of charges, the judge shall file an answer with the Commission setting forth in clear and concise language all denials, affirmative defenses and mitigating factors upon which the judge intends to rely at the public hearing. The executive director may for good cause extend the time for the judge's answer up to thirty additional days. The judge's failure to answer the formal statement of charges shall constitute an admission that the facts alleged in the formal statement of charges are true and establish grounds for discipline pursuant to NRS 1.4653.

### **Rule 18. Formal Hearing.**

18.1 If practicable, a public hearing must be held within sixty days after (a) the

judge files an answer, or (b) the date on which the time period for filing an answer expires if the judge did not file an answer or request an extension of time. The Commission must notify the judge and counsel of the time and place of the hearing and consult with the parties to accommodate, where possible, their schedules and those of potential witnesses. The proper location for judicial hearings and proceedings shall be in Reno or Las Vegas, whichever is closest for the judge.

18.2 The judge's failure to appear at the hearing shall constitute an admission that the facts alleged in the formal statement of charges are true and establish grounds for discipline pursuant to NRS 1.4653. Absent good cause, the Commission shall not continue or delay proceedings because of the judge's or counsel's failure to appear.

**Rule 19. Discovery.**

19.1 A. Within ten days after service of the Commission's prehearing order, the special counsel and the judge shall exchange the following material and information within their possession or control to the extent not previously provided:

(i) The names and addresses of persons who have knowledge of facts relating to the complaint against the judge;

(ii) Any written or recorded statements made by these persons and the substance of any oral statements claimed to have been made by the judge;

(iii) Any reports or statements of experts, made in connection with the case, including results of physical or mental examinations; and

(iv) 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.

19.2 The special counsel's and the judge's obligations under this rule extend to material and information in the possession or control of any persons who, on behalf of the Commission or the judge, have participated in any investigation of the charges.

19.3 If the special counsel or judge discovers additional material or information which is subject to disclosure after the close of discovery, the additional material or information must be promptly disclosed.

19.4 Work product of counsel is not subject to discovery.

**Rule 20. Subpoenas.** Both the judge and special counsel may compel by subpoena the hearing attendance of witnesses, including the judge, and the production of documents, books, accounts and other records. The Commission clerk shall prepare subpoenas based on the judge's and the special counsel's written requests and information. All subpoenas must be issued by the Commission's executive director. The judge and special counsel shall file proofs of service with the Commission with a statement certified by the server showing the date and manner of service and the names of the persons served.

**Rule 21. Witnesses.** Witnesses are entitled to appear with counsel, who may represent and advise them on matters affecting their rights. Upon a showing of good cause, the Commission may allow witnesses to testify remotely.

**Rule 22. Public Hearing.** The Commission shall hold all formal hearings in public and report the hearings verbatim. All testimony must be under oath.

**Rule 23. Presiding Officer.** The Commission chairperson shall designate a Commission member 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 judge shall be accorded due process of law.

**Rule 25. Burden of Proof.** Special counsel has the burden of proving by clear and convincing evidence the facts justifying discipline in conformity with the formal statement of charges.

**Rule 26. Cross-Examination, Evidence, and Time Restrictions.** The special counsel and the judge shall request an amount of time to present their respective cases. Subject to the rules of evidence applicable to civil proceedings, the special counsel and the judge: (i) are each entitled to present evidence and produce and cross-examine witnesses, and (ii) shall be allotted a reasonable amount of time.

**Rule 27. Order of Dismissal.** If the Commission determines that the charges against the judge have not been proven by clear and convincing evidence, or that discipline is not warranted in light of mitigating facts, it shall file an order publicly dismissing the charges against the judge with the Nevada Supreme Court and publish the order on the Commission's website within forty-eight hours of filing. Any sitting Commission member who does not agree with the dismissal order must be allowed ten days to prepare and sign a concurring or dissenting opinion. All orders and opinions shall be concurrently filed.

**Rule 28. Decision to Discipline.**

28.1 Within sixty days after the hearing on the formal statement of charges, the Commission shall prepare a written findings of fact, and conclusions of law. Before filing the decision, any sitting Commission member who wishes to prepare and sign a concurring or dissenting opinion must be allowed ten days for that purpose. The Commission's orders and opinions shall be concurrently filed and served on the judge.

28.2 Upon filing a decision ordering a judge's censure, removal, retirement or other



discipline, the Commission must file a certified copy of the decision with the Nevada Supreme Court clerk.

**Rule 28A. Revocation of Probation.** If a judge is on probation and is accused of violating the terms and condition of probation, the following rules apply:

28A.1 Initial Procedure. The Commission shall review all complaints alleging violations of the terms of a previously imposed probation to determine if there is a reasonable probability the evidence could prove the judge violated the terms and conditions of the probation. The Commission may, in its discretion and prior to making a determination of reasonable probability, authorize an investigation pursuant to PRJDC 11.

28A.2 Finding of Reasonable Probability. If the Commission makes a finding of reasonable probability, the Commission shall designate a special counsel who must sign under oath and file with the Commission a motion to revoke probation.

28A.3 Form and Content of Motion. The form and content of the motion shall be the same as prescribed in PRJDC 15 and must be served on the judge in the manner prescribed in PRJDC 38.1(B).

28A.4 Opposition. Respondent may file an opposition to the motion. The judge's opposition is due no later than ten days after receipt of service of the motion.

28A.5 Hearing. Upon receipt of the motion and proof of service, the Commission shall schedule a fast-track evidentiary hearing, if practicable, within thirty days unless waived by both the Commission and the judge. The Commission must notify the judge and counsel of the time and place of the hearing and consult the parties to accommodate, where possible, their schedules and those of potential witnesses. The

proper location for the hearing shall be the location closest for the judge in Reno or Las Vegas, Nevada.

28A.6 Failure to Appear. If the judge or counsel should fail to appear at the hearing, the judge shall be deemed to have admitted the factual allegations contained in the motion and shall be deemed to have conceded the merits of the motion. Absent good cause, the Commission shall not continue or delay proceedings due to the judge's or counsel's failure to appear.

28A.7 Burden of Proof and Due Process. Special counsel has the burden of proving, by a preponderance of the evidence, the facts justifying revoking the judge's probation. The judge shall otherwise have all rights and due process protections as set forth in these rules.

28A.8 Decision. Following a public hearing, the Commission may revoke the judge's probation and impose the discipline previously ordered, revoke and reinstate the judge's probation, or deny the motion.

A. Within thirty days after reaching a decision, the Commission shall prepare and adopt a written statement of the nature of the proceedings, findings of fact, and conclusions of law on the issues presented by the motion. The Commission may include in its decision a summary of evidence admitted. Any sitting Commission member who wishes to prepare and sign a concurring or dissenting opinion shall be allowed ten days for that purpose. The Commission's decisions and opinions shall be concurrently filed and served on the judge.

B. Upon adoption and filing of a Commission decision, the Commission must file a certified copy of the decision with the clerk of the Nevada Supreme

Court.

**Rule 29. Consent Orders.**

29.1 Upon the judge's written consent, the Commission may order the judge's censure, removal, retirement, or impose other discipline at any stage of the proceedings, either prior to or following a reasonable probability determination and the filing of a formal statement of charges, to take effect immediately.

29.2 Any sitting Commission member who does not agree with the consent order must be allowed ten days to prepare and sign a concurring or dissenting opinion. All orders and opinions shall be concurrently filed.

29.3 A certified copy of the consent order must be filed with the Nevada Supreme Court clerk and a copy served on the judge and published on the Commission's website within forty-eight hours of filing.

**VI. MENTAL OR PHYSICAL DISABILITY**

**Rule 30. Disability.** Complaints of incapacity due to mental or physical disability must be made pursuant to PRJDC 10.1-10.5. Such a complaint must contain facts, which, if true, justify retirement of a judge who is incapacitated pursuant to the Nevada Revised Statutes.

**Rule 31. Procedure for Carrying Out Responsibilities Regarding Physical or Mental Disability.**

31.1 The Commission will follow the same procedures for incapacity allegations as it employs for judicial misconduct. All conduct or omissions relied upon must be alleged with particularity, and must show a substantial disability which is likely to be permanent.

31.2 If a complaint alleges that a judge is incapacitated and the Commission

conducts an investigation and determines there is reasonable probability to file a formal statement of charges, the Commission shall first attempt to resolve the matter informally.

31.3 The Commission may request the judge 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.

31.4 If the Commission is unable to resolve the matter informally, and the judge does not retain counsel at the judge's own expense, the Commission shall appoint an attorney to represent the judge at public expense.

31.5 A judge's denial of all or part of the complaint alleging incapacity shall constitute the judge's consent 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.

31.6 The doctor-patient relationship shall not apply with regards to the findings of a physician designated by the Commission. The physician must provide a report to the Commission and the judge. The findings of a physician appointed by the Commission are not privileged communications.

31.7 The judge is entitled to have counsel and a medical expert of the judge's choice present during all phases of any examination ordered by the Commission unless the Commission excludes them after holding a hearing and finding they interfered with the orderly conduct of the examination.

31.8 A judge who retires during the pendency of an involuntary retirement proceeding shall be deemed to have retired voluntarily.

**Rule 32. Effect of Denial.** A judge's denial of all or part of the formal statement of charges alleging incapacity due to the judge's physical or mental condition shall constitute the judge's consent to submit to medical, psychiatric or psychological examination by a physician selected by the judge who is licensed to practice medicine in the State of Nevada.

## **VII. REFERRAL; APPEAL**

**Rule 33. Referral.** The Commission shall refer relevant information and evidence to the State Bar of Nevada when it removes or retires a judge on grounds reflecting unfavorably on the judge's fitness to practice law in Nevada.

### **Rule 34. Appeal.**

34.1 A judge 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.

34.2 A judge must file a notice of appeal with the Commission clerk within thirty days after service of the Commission's formal order of censure, removal, retirement, public reprimand or other discipline and findings of fact and conclusions of law. Upon the filing of the notice of appeal, the Commission clerk shall immediately transmit to the Nevada Supreme Court clerk two file-stamped copies of the notice of appeal.

34.3 The judge shall file an original transcript request form with the Commission clerk and one file-stamped copy of the transcript request form with the Nevada Supreme Court clerk no later than fourteen days after filing the notice of appeal.

34.4 Filing, service, deposit and costs of the transcript, as it relates to the judge, shall follow the procedures set forth in the Nevada Rules of Appellate Procedure Rule 9.

## **VIII. ADMINISTRATIVE PROVISIONS**

### **Rule 35. Expenses, Costs and Fees.**

35.1 Witnesses may be entitled to fees and mileage allowances in accordance with the Nevada Rules of Civil Procedure and NRS 50.

A. If the Commission disciplines a judge, the Commission may recover from the judge any incurred fees and mileage allowances of, and costs of services upon, witnesses ordered by the judge.

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.**

36.1 The Commission may amend and supplement these rules as it deems necessary. The Commission may seek comment from the public prior to amending or supplementing these rules at its discretion.

36.2 The Commission may adopt procedures and policies for its internal operations consistent with these rules.

**Rule 37. Computation of Time.** Time limitations shall be computed pursuant to the Nevada Rules of Civil Procedure and the Nevada Rules of Appellate Procedure.

**Rule 38. Public Case Filing Procedures.** All documents required or permitted to be filed with the Commission in formal public cases and proceedings must strictly comply with these rules.

38.1 Filings and Service. The documents required or permitted to be filed with the Commission shall be filed with the Commission clerk as provided below.

A. Filings in General. Filings must be made by email to the Commission at

ncjdinfo@judicial.nv.gov. Filings shall not be timely unless the Commission receives the documents within the time fixed for filing.

B. Service of Initial Filings. Service of the formal statement of charges and any other initial filings by the Commission or special counsel shall be served on the judge as follows:

(i) by delivering a copy of the formal statement of charges or other initial filing to the judge personally;

(ii) by leaving a copy of the formal statement of charges or other initial filing at the judge's office, chambers or dwelling or usual place of abode with a person of suitable age and discretion who is not an adverse party to the judge being served;

(iii) by delivering a copy of the formal statement of charges or other initial filing to the judge's counsel of record; or

(iv) if necessary, by publication.

C. Proof of Service. Documents presented for filing shall contain an acknowledgement of service by the persons served or proof of service in the form of a statement of the date and manner of service and of the names of the persons served, certified by the person who made service. Proof of service shall appear on or be affixed to the documents filed.

D. Signature and Bar Number Required. All documents submitted to the Commission for filing by a represented party shall include the electronic signature of at least one attorney of record who is an active member of the State Bar of Nevada and the attorney's address, telephone number, and State Bar of Nevada identification number. All documents submitted to the Commission for filing by unrepresented parties shall include

the party's electronic signature, address and telephone number.

E. Caption. The caption of all documents filed with the Commission shall be styled as follows:

Attorney's Name *[Top Left Margin]*  
 Attorney's Firm Name  
 Bar Number  
 Street Address  
 City, State, Zip Code  
 Telephone Number  
*[2 line spaces]*  
 Attorney for *[Respondent or Commission]*  
*[4 line spaces]*  
 BEFORE THE NEVADA COMMISSION ON  
 JUDICIAL DISCIPLINE  
*[2 line spaces]*  
 STATE OF NEVADA  
*[2 line spaces]*

In the Matter of the )  
 )  
 Honorable *[Respondent Name]*, )  
*[Judge type, township, city and state]*, ) Case No.  
 )  
 Respondent. )  
 \_\_\_\_\_ )

38.2 Motions.

A. Content of Motions; Response; Reply. Unless these rules require another form, an application for an order or other relief shall be made by filing a motion for such order or relief with proof of service on all other parties. The motion shall state with particularity the grounds on which it is based, and shall set forth the order or relief sought. If a motion is supported by briefs, affidavits or other papers, they shall be served and filed with the motion. Any party may file a response in opposition to a motion within ten days after service of the motion. A reply to the opposition to a motion shall be filed within seven



days. The Commission may shorten or extend the time for responding to any motion. Upon the expiration of the time as specified in this PRJDC 38.2 or such other time periods as the Commission may order, motions shall be deemed submitted to the Commission. Decisions on motions shall be made without oral argument unless otherwise requested by a party and ordered by the Commission. The Commission shall rule on all pre-hearing motions filed sixty days before the hearing at least fourteen days prior to a hearing. If the Commission orders oral argument, the parties and Commission members shall be permitted to appear remotely for any pre-hearing motions.

B. Motions that May Cause a Delay in the Hearing. Any motion which by its nature could result in continuing or delaying any scheduled hearing must be filed and served via email at least thirty days prior to the date set for the hearing. Opposition to the motion must be filed and served via email within seven days after service of the motion. The motion shall stand submitted upon expiration of the time periods specified herein.

C. Service of Motions. Service of motions and other documents filed by a party to a proceeding before the Commission shall be served on all other parties by delivering a copy of the filed motion or document to the party via email and copying the Commission. A complainant is not a party to any proceeding.

38.3 Extensions of Time. The Commission's executive director may extend for good cause the time limits set forth in these rules.

38.4 Challenges for Cause.

A. Any party to a Commission hearing or proceeding who seeks to disqualify a Commission member or sitting alternate member for actual or implied bias or prejudice or other cause must file an affidavit specifying the facts upon which the

disqualification is sought. A challenge for cause may be taken on any of the grounds relating to jurors enumerated in NRS 16.050, as applicable. The affidavit of a party represented by an attorney must be accompanied by a certificate of the attorney of record that the affidavit is filed in good faith and not interposed for delay. The affidavit must be filed not more than thirty days after service of the order setting hearing.

The Commission will forward the filed affidavit to the Commission member sought to be disqualified.

B. The Commission member against whom an affidavit alleging bias or prejudice or other cause is filed shall proceed no further with the matter and file a written answer with the Commission clerk within five days after receiving the affidavit admitting or denying the allegations and setting forth any additional facts on the question of disqualification.

C. The Commission must hear and determine the Commission member's disqualification pursuant to PRJDC 3. The Commission may disqualify any member who by reason of actual or implied bias would either be prevented from adjudicating the matter in a fair and impartial manner or, due to an appearance of impropriety, be prevented from adjudicating the matter in a manner consistent with the public's confidence in the Commission. The Commission shall replace any disqualified Commission member with an alternate Commission member, if available.

# EXHIBIT B

# Procedural Rules of the Nevada Commission on Judicial Discipline

## I. GENERAL PROVISIONS

**Rule 1. Scope and Citation of Procedural Rules.** ~~These rules carry out the obligation of~~  
~~the~~The Nevada Commission on Judicial Discipline ~~to adopt~~adopts these rules of procedure  
for ~~the conduct of~~conducting its proceedings and hearings and ~~other procedural rules~~  
~~necessary to carry~~carrying out its duties ~~as imposed by~~pursuant to Section 21(7) of Article  
6 of the Constitution of the State of Nevada. These rules may be referred to as the  
Procedural Rules of the Nevada Commission on Judicial Discipline and cited as "PRJDC".

**Rule 2. Definitions.** In these rules, unless the context requires otherwise:

2.1- "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~~Commission member and any lay person designated by the Governor to act in  
place of a specific lay Commission member.

~~"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.~~

2.2 "Commission" means the Nevada Commission on Judicial Discipline.

2.3- "Executive ~~Director~~director" means any person who serves as the  
Commission's executive director.

2.4 "Commission counsel" means any person who serves ~~in the administrative~~

capacity as ~~Executive Director of the Commission~~ as the Commission's legal advisor.

~~4. "General Counsel" means any person who serves in the capacity of legal advisor to the Commission.~~

~~2.5. "Formal Statement of Charges" means the document filed by the designated Prosecuting Officer setting forth the specific acts of judicial misconduct or incapacity pursuant to NRS 1.4267.~~

~~2.6. "Judicial Misconduct" means commission of any act which is a ground for discipline set forth in~~ NRS 1.4653.

~~2.7. "Member" shall include such Alternates~~ includes all judicial, lawyer and lay Commission members, including alternates, who have been seated in any specific meeting, case, or proceeding.

~~2.8. "Prosecuting Officer" "Special counsel" means an attorney designated by the commission~~ Commission to file and prosecute a complaint or a formal statement of charges, or perform other tasks as directed by the Commission pursuant to NRS 1.4663.

~~2.9. "Judge" shall have the meaning as set forth in NRS 1.428. The Commission will refer to a judge who is the subject of disciplinary or removal proceedings as the respondent, or other appropriate designation, in public filings, decisions, and orders.~~

~~2.10. "Reasonable Probability" means at the Commission's 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 judge named in the complaint.~~

~~2.11. "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 and notice ~~by personal delivery or by registered mail or certified mail, return receipt requested, or by electronic means (email).~~ as provided in these rules or, if silent, the Nevada Rules of Civil Procedure ("NRCP") unless the application of a particular rule is clearly impracticable, inappropriate, or inconsistent with the functions of the Commission. "Serve" and "notify" have corresponding meanings.~~

~~2.12 "Shall" is mandatory and "may" is permissive.~~

### **Rule 3. Structure; Meetings; Formal Hearings.**

~~3.1. A Respondent may judge shall not participate as a ~~member of the~~ Commission member in any proceeding involving a charge against ~~Respondent~~ the judge.~~

~~3.2. ~~A member of the~~ An alternate will replace a Commission member 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). In the event of such a replacement, an~~ Alternate must and will 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 substitute as judicial members of the Commission judges serving in courts of limited jurisdiction outside the county in which the Respondent presides.~~~~

~~3.3 The Commission ~~may be convened by the~~ chairperson or ~~on request of~~ three or more members. ~~Meetings may be held on not less than~~ may convene the Commission~~

~~and hold meetings with at least three (3) days' notice, but this requirement may be waived by consent of unless all the members agree to less notice.~~

3.4. — Quorum

A. Normal Commission Business. A quorum for ~~the conduct of~~ conducting normal Commission business other than ~~the hearing~~ public hearings and ~~decision~~ decisions of formal disciplinary proceedings is four members. The action of a majority of ~~the Commission~~ members present ~~at any meeting at which~~ shall be the action of the Commission.

B. Public Hearings and Decisions of Formal Disciplinary Proceedings. Public hearings and decisions of formal disciplinary proceedings shall proceed with a quorum ~~is of seven Commission members unless a Commission member and its alternate have been disqualified pursuant to PRJDC 38.4, or are unavailable to participate, and there are no other available alternate Commission members. The minimum quorum permitted shall be no less than five Commission members. The action of four or more members present is the action of the Commission, except that no Respondent may judge shall be censured, temporarily suspended under rule PRJDC 9, removed or retired from office or punished for contempt, unless five or more Commission members~~ se concur.

5. — 5. — The Commission may transact business ~~requiring approval of the members may be transacted~~ either at ~~an~~ in-person ~~meeting~~ meetings or by telephone, videoconference, ~~electronic mail (“or email”) or other informal poll~~ of all members appointed, the majority concurring, but if any member objects to ~~such a poll~~ transacting business by email, the matter must be deferred until the next in-person, telephonic or ~~in-person~~ videoconference 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 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 5 members of the Commission.~~

~~9~~ 6. No member may vote by substitution or proxy.

## II. PRIVILEGED COMMUNICATIONS

**Rule 4. Privileged Communications.** The following are privileged communications pursuant to NRS 1.4695 and shall not be divulged to any person or court.  
~~and shall not be divulged to any person or court.~~

~~4.1.~~ All oral and written communications between ~~the~~ Commission ~~and its~~



counsel, the executive director, Commission staff and Commission members.

~~4.2.—All~~ The Commission's deliberations ~~of the Commission,~~ including all meeting minutes ~~of the~~

~~Commission.~~

~~4.3.~~ All oral and written communications ~~either oral or written~~ between ~~General counsel and/or Executive Director and members of the~~ Commission counsel and Commission investigators.

4.4 All oral and written communications between ~~General Counsel or Executive Director and Commission staff, prosecuting officers, or~~ Commission investigators and special counsel made prior to the filing of formal (or amended) statement of charges.

4.5 All oral and written communications between Commission counsel and special counsel made prior to the filing of formal (or amended) statement of charges, or communications involving settlement discussions either prior to or after the filing of formal statement of charges.

4.6 Nothing in these rules shall authorize the discovery or disclosure of any writing or thing that is privileged or confidential nor shall these rules be construed to otherwise limit the attorney-client or work product privileges of the Commission or its counsel.

**Rule 5. Violations of the Revised Nevada Code of Judicial Conduct.** ~~Members of the Commission who are judges~~The Commission's judicial members are subject to disciplinary proceedings before the Commission for violations of the Revised Nevada Code of Judicial Conduct, and are ~~also~~ subject to removal ~~as members offrom~~ the Commission upon order of the Nevada Supreme Court.

**Rule 6. Formal Charges.** Upon the ~~filing of the Formal Statement of Charges, said~~

~~Statements~~special counsel's filing of the formal statement of charges against a judge, the Commission will make the formal statement of charges, and other documents later formally filed with the Commission ~~shall be made~~, accessible to the public, upon request and will hold public hearings. Subject to the Commission website's technical, functional and storage capabilities as administered by the Department of Administration, the Commission shall be open.post the formal statement of charges and other documents later formally filed with the Commission, including any Nevada Supreme Court pleadings and decisions in connection with the proceeding, within forty-eight hours of filing or publication. The Commission's deliberative sessions and meeting minutes must remain ~~private~~confidential and ~~shall~~will not be disclosed. ~~The filing of the Formal Statement of Charges does~~charges against a judge do not justify the Commission, its counsel or staff ~~in making~~to make public any correspondence, notes, work papers, interview reports, or other evidentiary matter, except at ~~the formal~~a public hearing or with ~~explicit~~the judge's express 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, 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 prejudgment, 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.~~

Rule 7. [Reserved]

III. JURISDICTION AND GROUNDS FOR ~~DISCIPLINE~~SUSPENSION

Rule 8. ~~Grounds for Discipline.~~ Jurisdiction.

8.1 The ~~Commission's personal~~ jurisdiction ~~of the Commission~~ extends to all ~~justices and judges pursuant to NRS 1.428~~, including senior or part-time judges, and anyone ~~whether or not a lawyer~~ who is ~~an officer of a judicial system~~officer and ~~who performs or formerly performed judicial functions, including an officer such as a magistrate,~~ but not limited to, magistrates, court commissioner~~commissioners, 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.~~masters or referees.

8.2 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~~Commission's subject matter jurisdiction extends to ~~judicial or administrative discretion. Claims of error shall be left to the appellate process, unless supported~~the fullest amount authorized 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~~the constitution and statutes of the State of Nevada.

## Rule 9. Suspension.

~~9.1.~~ The Commission may suspend a ~~Judge~~judge from ~~the exercise of the~~judicial office in accordance with NRS 1.4675 and NRS 1.4677(1).

~~9.2.~~ The Commission shall ~~give~~provide the ~~Respondent~~judge seven ~~(7)~~ days' notice of its intention to suspend ~~following a public hearing.~~ The ~~Judge~~judge may ~~submit documents~~respond in ~~opposition~~writing to ~~suspension which shall be considered by the~~the Commission ~~prior to the public hearing or at the public hearing either personally or through counsel.~~

~~9.3.~~ The Commission shall hold a public hearing before ordering such a suspension unless the ~~Judge~~judge waives the ~~right to the~~ hearing.

~~3.~~ ~~9.4.~~ A ~~Respondent~~judge suspended under these rules may appeal to the Nevada Supreme Court.

~~4.~~ ~~The~~ ~~9.5.~~ ~~If the Commission decides to suspend a judge, the~~ Commission shall promptly file a certified copy of ~~the notice~~an order of suspension with the ~~clerk of the~~ Nevada Supreme Court.

~~9.6.~~ ~~Within sixty days after the Commission's decision to suspend a judge pursuant to NRS 1.4675 and these rules, the Commission shall:~~

- ~~A.~~ ~~Have a formal statement of charges filed against the judge;~~
- ~~B.~~ ~~Enter into a deferred discipline agreement with the judge pursuant to NRS 1.468; or~~
- ~~C.~~ ~~Rescind the suspension. If the suspension was mandatory pursuant to NRS 1.4675(1)(a), and the circumstances mandating suspension still exist after sixty~~

days, the Commission must reinstate the suspension immediately without a public hearing.

#### IV. PROCEDURE IN CASES OF JUDICIAL MISCONDUCT PRIOR TO FINDING OF REASONABLE PROBABILITY

##### Rule 10. Initiation of Procedure.

~~1. Except as provided in subsections 2 and 3, initial complaints of Judicial Misconduct must be made in writing upon oath or declaration under penalty of perjury and may be made by the person complaining. Such a complaint must contain facts which, if true, would establish grounds for discipline as set forth in NRS 1.4653.~~

~~2. 10.1 Complaints by Public. Complaints may be made by anyone and in accordance with these rules.~~

~~10.2 Complaints by Executive Director. The executive director may initiate a complaint when directed by the Commission if:~~

~~A complaint may be initiated by The Commission receives information in any form or from any source received by the Commission that alleges objectively verifiable evidence from which a reasonable inference can be drawn that a Judge judge committed judicial misconduct or is incapacitated. ~~If there is no written complaint from another person, the Executive Director of the Commission may file a complaint.; or~~~~

~~3. In exceptional circumstances, in which the B. The Commission has substantial reason to believe ~~that~~ a complainant 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 on.~~

~~10.3 Form of Complaint. Except as provided by PRJDC 10.2, complaints must be in writing, sworn to under oath or affirmation under penalty of perjury, filed on the Commission's form located on its website, bear the complainant's original signature and sent via U.S. mail. Complaints filed by the executive director at the Commission's direction must be made in writing and sworn to under information and belief, in the complainant's stead.~~

~~10.4. A complaint will be reviewed by Commission staff to ensure that it meets the minimum requirements as required by statute. Except for complaints filed by the Executive Director, all complaints shall be sworn or declared under penalty \_\_\_\_\_ of perjury. Complaint. 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 complaints shall be reviewed by the Commission to determine whether they state must allege specific facts, which, if true, establish grounds for discipline or incapacitation as set forth in the Nevada Revised Statutes. NRS 1.4653.~~

~~6. The Commission may either dismiss the complaint or authorize an investigation.~~

~~7. A complainant may file a request for reconsideration \_\_\_\_\_ A. For the purposes of a dismissed complaint. Unless additional this rule, "specific facts" mean, but are not limited to, the date, time and location of the alleged which in the opinion of the~~

~~General Counsel require reconsideration~~ judicial misconduct or incapacity and a clear and concise statement of the dismissed facts or circumstances surrounding the alleged judicial misconduct or incapacitation.

B. For the purposes of this rule, “specific facts” do not mean bare allegations or conclusions that a judge committed judicial misconduct or is incapacitated.

10.5 Administrative Dismissal of Complaints. Commission staff may dismiss a complaint administratively if:

A. The Commission does not have jurisdiction over the individual named in the complaint;

B. The Commission does not have jurisdiction over the alleged act(s) of judicial misconduct or incapacitation; or

C. The complaint does not comply with the law or conform to PRJDC 10.3 and 10.4, including the Commission’s complaint by the form located on its website.

~~The Commission, the matter may be dismissed~~ must review and decide whether to ratify all administratively by Commission staff with dismissed complaints at a meeting.

10.6 Initial Review of Complaint by Commission. The Commission must review all complaints to determine whether they allege objectively verifiable evidence from which a reasonable inference could be drawn that a judge committed judicial misconduct or is incapacitated.

A. If the Commission determines a complaint does contain such allegations, the Commission subsequently ratifying shall authorize further investigation.

B. If the Commission determines a complaint does not contain such

~~dismissals, if appropriate, at its next scheduled meeting~~allegations, the Commission shall dismiss the complaint with or without a letter of caution.

**Rule 11. Investigation.**

~~11.1. The~~ Commission staff may perform ~~minimal~~preliminary investigation ~~as may be necessary~~ to aid the Commission in ~~properly~~ reviewing a complaint.

~~11.2.~~ A full investigation ~~may~~shall not commence without Commission authorization.

~~11.3.~~ After the Commission authorizes an investigation ~~is authorized by the Commission,~~ the ~~Executive Director~~executive director shall hire an investigator or investigators as necessary and direct the investigation to ~~properly~~ carry out the Commission's 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 complaint.~~

~~11.4~~ Investigations may encompass any matters either raised in the complaint or disclosed during the investigative process. ~~When;~~ however, when matters ~~that are totally~~wholly unrelated to the ~~issues raised in the~~ complaint are uncovered, they shall not be investigated without ~~first receiving~~ Commission approval.

~~11.5~~ Prior to scheduling an investigative interview with a judge, the Commission investigator shall provide a judge a brief description of the issues being investigated and relevant case numbers.

~~11.6~~ The Commission investigator may compel by subpoena the attendance of witnesses and the production of documents, books, accounts and other records for



purposes of investigation. The Commission clerk shall prepare subpoenas based on the Commission investigator's written request and information. All subpoenas must be issued by the Commission's executive director. The Commission investigator shall file proofs of service with the Commission with a statement certified by the server showing the date and manner of service and the names of the persons served.

**Rule 12. Determination to Require an Answer Judge to Respond to Complaint.**

12.1. The Commission shall review all investigation reports ~~of the investigation to~~ determine whether there is sufficient reason to require the Respondent judge to answer respond to a complaint. If there is insufficient reason to proceed, the Commission may dismiss 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.~~

12.2. If the Commission determines ~~it could in all likelihood make a determination that~~ there is a Reasonable Probability 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 judge named in the complaint to respond.

12.3. The Commission shall serve the complaint upon on the Respondent who shall have 30 judge via certified mail, overnight third-party commercial carrier or any other method authorized by PRJDC 38.1(B), with thirty days in which to respond to the complaint. Failure of the Respondent to answer the complaint shall be deemed. The judge's failure to respond

shall constitute an admission that the facts alleged in the complaint are true and establish grounds for discipline pursuant to NRS 1.4653.

12.4. In ~~preparing to respond~~ responding to a determination of Reasonable Probability ~~reasonable probability~~, the Respondent ~~judge~~ has the right to inspect ~~all the~~ Commission's records ~~of the Commission~~ relating to the disciplinary action against the Respondent ~~judge~~ and to be fully ~~advised~~ notified as to the contents of such records. Privileged communications and work product of the Commission's executive director and Commission counsel are not subject to inspection. To the extent practicable, the Respondent ~~judge~~ shall be supplied with all records of the Commission subject to inspection along with service of the complaint.

12.5. ~~Amendment of~~ The Commission may allow amendments to the allegations in the complaint, ~~prior to a finding of Reasonable Probability, may be permitted by the Commission. The Respondent~~ reasonable probability and shall ~~be given~~ give the judge notice of any amendments, and additional time ~~as may be necessary~~ to respond to the complaint. \_\_\_\_\_

~~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. Following Judge's Response**

13.1. Based upon ~~on~~ the complaint ~~and all relevant evidence presented in the~~ the investigation reports ~~of any investigation conducted by the Commission or referred to in~~ and the judge's documents and memoranda in ~~the Respondent's response and supporting~~

~~documents~~, the Commission shall make a finding of whether there is ~~Reasonable Probability~~reasonable probability for disciplinary action against the ~~Judge~~judge named in the complaint.

~~13.2.~~ If the Commission makes a finding that such a ~~Reasonable Probability~~reasonable probability does not exist, the Commission shall dismiss the complaint.~~The Commission may issue with or without~~ a letter of caution~~accompanying its dismissal~~.

~~13.3.~~~~A.~~ Pursuant to ~~NRS 1.467(5)~~, a finding of ~~Reasonable Probability~~reasonable probability authorizes the ~~Executive Director~~Commission to designate a ~~Prosecuting Officer who must sign under oath~~special counsel to file a ~~Formal Statement~~formal statement of ~~Charges~~charges against the ~~Judge~~judge.

## V. PROCEDURE AFTER FINDING OF REASONABLE PROBABILITY

**Rule 14. Filing of ~~formal Statement of Charges~~.** ~~If Reasonable Probability is found, a Formal Statement of Charges shall be filed. The Formal Statement of Charges is a public document, as are other.~~ The formal statement of charges and subsequent pleadings, motions, challenges, and supporting affidavits ~~subsequently filed~~are public documents. The ~~Formal Statement of Charges shall be filed~~special counsel must file the formal statement of charges under oath with the ~~clerk of the~~ Commission clerk.

**Rule 15. Content of Formal Statement of Charges.** The ~~Formal Statement~~formal statement of ~~Charges~~charges must ~~contain a clear~~ reference to the ~~specific~~relevant provisions of ~~statutes~~, the Nevada Revised Statutes, the Revised Nevada Code of Judicial Conduct and the Nevada Constitution ~~which are deemed to justify procedures before the Commission, together with~~and provide 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 Formal Statement of Charges.** The ~~Respondent~~judge shall be served ~~within ten (10) days of filing a~~with a copy of the ~~Formal Statement~~formal statement of ~~Charges~~charges.

**Rule 17. ~~Respondent's~~ Answer.** Within ~~20~~twenty days after service of the ~~Formal Statement~~formal statement of ~~Charges~~charges, the ~~Respondent~~judge shall file an answer with the Commission ~~an original and one copy of an answer. The answer must set~~setting forth in ~~ordinary~~clear and concise language all denials, affirmative defenses and mitigating factors upon which the ~~Respondent~~judge intends to rely at the public hearing. The ~~Executive Director~~executive director may, for good cause, extend the time for ~~Respondent's~~the judge's answer ~~for a period not up to exceed 30~~to exceed 30~~thirty~~ additional days. ~~Failure~~The judge's failure to answer the ~~Formal Statement~~formal statement of ~~Charges~~charges shall constitute an admission that the facts alleged in the formal ~~complaint~~statement of charges are true and establish grounds for discipline pursuant to ~~NRS 1~~NRS 1.4653.

**Rule 18. Formal Hearing.**

18.1. ~~When the answer has been filed, a formal hearing shall be scheduled, if~~ If practicable, a public hearing must be held within ~~60~~sixty days ~~unless waived by both~~after (a) the judge files an answer, or (b) the date on which the time period for filing an answer expires if the judge did not file an answer or request an extension of time. The Commission must notify the judge 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~~consult with the parties to accommodate, where possible, ~~the their~~ schedules ~~of the Respondent and counsel and~~ and those of ~~their potential~~ witnesses. The proper ~~venue~~location for judicial hearings and proceedings shall be ~~determined by in Reno or Las Vegas, whichever is closest for the Commission at its sole discretion~~judge.

~~18.2. If the Respondent or counsel should fail~~ The judge's failure to appear at the hearing, ~~the respondent shall be deemed~~ shall constitute an admission that the facts alleged in the formal statement of charges are true and establish grounds for discipline pursuant to have admitted the factual allegations contained in the formal complaint and shall be deemed to have conceded the merits of the complaint. NRS 1.4653. Absent good cause, the Commission shall not continue or delay proceedings because of the ~~respondent's~~judge'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.**

~~19.1. A. Within ten (10) days after service of the notice of the Commission's Prehearing Order~~prehearing order, the ~~Commission's~~special counsel and the ~~Respondent~~judge 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~~judge;

(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~~judge;

(~~eiii~~) Any reports or statements of experts, made in connection with the ~~particular~~ case, including results of physical or mental examinations; and

(~~div~~) 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.

19.2. The ~~Commission's special counsel's~~ and ~~Respondent's the judge's~~ obligations under this rule ~~extend~~extend to material and information in the possession or control of any persons who, on behalf of the Commission or the ~~Respondent~~judge, have participated in any investigation of the charges.

19.3. ~~If, subsequent to complying with these discovery provisions,~~ the ~~Commission special counsel~~ or ~~Respondent~~judge discovers additional material or information which is subject to disclosure after the close of discovery, the additional material or information must be promptly disclosed.

19.4. ~~True work~~ Work product of counsel is not subject to discovery.

**Rule 20. ~~Subpoena~~Subpoenas. Both the ~~judge~~ and ~~Inspection.~~ ~~The Respondent and Prosecuting Officer are entitled to~~special counsel may compel by subpoena the hearing attendance ~~at the formal hearing~~ of witnesses, including the ~~Respondent, by subpoena, and to provide for~~judge, and the production of documents, books, accounts and other records. ~~Subpoenas~~The Commission clerk shall prepare subpoenas based on the judge's and the special counsel's written requests and information. All subpoenas must be issued by the ~~Executive Director of~~Commission's executive director. The judge and special counsel shall**

file proofs of service with the Commission in the same with a statement certified by the server showing the date and manner as subpoenas are issued by clerks in the district courts of this state of service and the names of the persons served.

**Rule 21. Witnesses.** Witnesses are entitled to appear with counsel, who may represent and advise them on matters affecting their rights. Upon a showing of good cause, the Commission may allow witnesses to testify remotely.

**Rule 22. Public Hearing.** The ~~formal hearing~~Commission shall ~~be held~~hold all formal hearings in public ~~before and report the Commission~~hearings verbatim. All testimony must be under oath. ~~All hearings shall be reported verbatim.~~

**Rule 23. Presiding Officer.** ~~At the commencement of the hearing, the~~The Commission chairperson shall designate a Commission member ~~of the Commission~~ who is either a ~~Judge~~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~~judge shall be accorded due process of law.

**Rule 25. Burden of Proof.** ~~Counsel appointed by the Commission to present the evidence against the Respondent have~~Special counsel has the burden of proving, by clear and convincing ~~legal~~ evidence, the facts justifying discipline in conformity with the ~~averments~~formal statement of ~~the Formal Statement of Charges~~charges.

**Rule 26. Cross-Examination, Evidence, and Time Restrictions.** The ~~Commissions~~special counsel and the ~~Respondent~~judge shall request an amount of time to present their respective cases. Subject to the rules of evidence applicable to civil

proceedings, the special counsel and the judge: (i) 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~~ and (ii) shall be allotted a reasonable amount of time.

**Rule 27. Order of Dismissal.** If the Commission determines ~~either~~ that the charges against the ~~Respondent~~judge have not been proven by clear and convincing evidence, or that discipline is not warranted in light of mitigating facts ~~made to appear in mitigation or avoidance~~, it shall ~~forthwith prepare and file~~ its~~an~~ order publicly dismissing the charges against the ~~Respondent~~judge with the Nevada Supreme Court and publish the order on the Commission's website within forty-eight hours of filing. Any sitting ~~member of the Commission~~ member who does not agree with the ~~order, which has been approved by other Commission members,~~dismissal order must be allowed ten ~~(10)~~ days ~~in which~~ to prepare and sign a concurring or dissenting opinion. All orders and opinions shall be concurrently filed.

**Rule 28. Decision to Discipline.**

28.1. Within ~~20~~sixty days after ~~reaching a decision that discipline should be imposed~~the hearing on the formal statement of charges, the Commission shall prepare a written findings of fact, and conclusions of law. Before filing the decision, any sitting Commission member who wishes to prepare and sign a concurring or dissenting opinion must be allowed ten days for that purpose. The Commission's orders and opinions shall be concurrently filed and served on the judge.

28.2 Upon filing a decision ordering a judge's censure, removal, retirement or other discipline, the Commission must file a certified copy of the decision with the Nevada



Supreme Court clerk.

**Rule 28A. Revocation of Probation.** If a judge is on probation and is accused of violating the terms and condition of probation, the following rules apply:

28A.1 Initial Procedure. The Commission shall review all complaints alleging violations of the terms of a previously imposed probation to determine if there is a reasonable probability the evidence could prove the judge violated the terms and conditions of the probation. The Commission may, in its discretion and prior to making a determination of reasonable probability, authorize an investigation pursuant to PRJDC 11.

28A.2 Finding of Reasonable Probability. If the Commission makes a finding of reasonable probability, the Commission shall designate a special counsel who must sign under oath and file with the Commission a motion to revoke probation.

28A.3 Form and Content of Motion. The form and content of the motion shall be the same as prescribed in PRJDC 15 and must be served on the judge in the manner prescribed in PRJDC 38.1(B).

28A.4 Opposition. Respondent may file an opposition to the motion. The judge's opposition is due no later than ten days after receipt of service of the motion.

28A.5 Hearing. Upon receipt of the motion and proof of service, the Commission shall schedule a fast-track evidentiary hearing, if practicable, within thirty days unless waived by both the Commission and the judge. The Commission must notify the judge and counsel of the time and place of the hearing and consult the parties to accommodate, where possible, their schedules and those of potential witnesses. The proper location for the hearing shall be the location closest for the judge in Reno or Las

Vegas, Nevada.

28A.6 Failure to Appear. If the judge or counsel should fail to appear at the hearing, the judge shall be deemed to have admitted the factual allegations contained in the motion and shall be deemed to have conceded the merits of the motion. Absent good cause, the Commission shall not continue or delay proceedings due to the judge's or counsel's failure to appear.

28A.7 Burden of Proof and Due Process. Special counsel has the burden of proving, by a preponderance of the evidence, the facts justifying revoking the judge's probation. The judge shall otherwise have all rights and due process protections as set forth in these rules.

28A.8 Decision. Following a public hearing, the Commission may revoke the judge's probation and impose the discipline previously ordered, revoke and reinstate the judge's probation, or deny the motion.

A. Within thirty days after reaching a decision, the Commission shall prepare and adopt a written statement of the nature of the ~~proceeding~~ proceedings, findings of fact, and conclusions of law on the issues presented by the ~~Formal Statement of Charges and the answer thereto, if any.~~ motion. The Commission may include in its decision a summary of evidence admitted. ~~When the foregoing have been formulated, any~~ Any sitting Commission member who wishes to ~~dissent~~ prepare and sign a concurring or ~~protest~~ dissenting opinion shall be allowed ten ~~(10)~~ days for that purpose. ~~Upon filing, the Commission must promptly serve a copy of the foregoing on the Respondent.~~ The Commission's decisions and opinions shall be concurrently filed and served on the judge.

B. —2.— Upon adoption and filing of a ~~decision which orders the~~

~~censure, removal, retirement or other discipline of a Respondent,  
the Commission decision, the~~

Commission must file a certified copy of the decision with the clerk of the Nevada Supreme Court.

### **Rule 29. Consent Orders.**

29.1 Upon the judge's written consent ~~of the Respondent~~, the Commission may order the ~~Respondent's~~judge's censure, removal, retirement, or impose other discipline at any stage of the proceedings, either prior to or following a reasonable probability determination ~~of Reasonable Probability~~ and the filing of a ~~Formal Statement of Charges, unless waived by Respondent, and such Orders~~formal statement of charges, to take effect immediately.-

29.2 ~~Any sitting Commission member who does not agree with the consent order must be allowed ten days to prepare and sign a concurring or dissenting opinion. All such Consent Orders~~orders and opinions shall ~~contain the allegations and charges that would be set forth in a Formal Statement of Charges had one been~~be concurrently filed.

29.3 A certified copy of the ~~Order~~consent order must be filed with the ~~Clerk of the~~ Nevada Supreme Court clerk and a copy ~~of the Order must be~~ served on the ~~Respondent~~judge and ~~placed~~published on the Commission's website ~~of the Commission~~within forty-eight hours of filing.

## **VI. MENTAL OR PHYSICAL DISABILITY**

**Rule 30. Disability.** Complaints of incapacity due to mental or physical disability must be made ~~in writing and may be made by any person~~pursuant to PRJDC 10.1-10.5. Such a

complaint must contain facts, which, if true, ~~would~~ justify retirement of a ~~respondent~~judge who is ~~disabled in the manner defined in~~incapacitated pursuant to 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 filed after a determination of Reasonable Probability must be under oath.~~ 31.1 The Commission will follow the same procedures for incapacity allegations as it employs for judicial misconduct. All conduct or omissions relied upon must be alleged with particularity, and must show a substantial disability which is likely to be permanent.

~~31.2: If a complaint received by the Commission alleges that a Judgejudge is incapacitated, and the Commission determines after conducting conducts an investigation that and determines there is Reasonable Probabilityreasonable probability to file a formal complaintstatement of charges, the Commission shall first attempt to resolve the matter informally.~~

~~31.3: The Commission may request the Respondentjudge 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.~~

~~31.4 If the Commission is unable to resolve the matter informally, and the judge does not retain counsel at the judge's own expense, the Commission shall appoint an attorney to represent the judge at public expense.~~

31.5 A judge's denial of all or part of the complaint alleging incapacity shall constitute the judge's consent 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.~~

~~31.6.~~ The doctor-patient relationship shall not apply with ~~regard~~regards to the findings of ~~the medical practitioner~~a physician designated by the Commission ~~whose~~. The physician must provide a report ~~must be furnished~~ to the Commission and the ~~Respondent~~judge. The findings of a physician appointed by the Commission are not privileged communications.

~~31.7. 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~~ The judge is entitled to have counsel and a medical expert of the ~~Respondent's~~judge's choice present during all phases of any examination ordered by the Commission unless the Commission excludes them after holding a hearing and finding they interfered with the orderly conduct of the examination.

31.8. A ~~Respondent~~judge who retires during the pendency of an involuntary

retirement ~~proceedings~~proceeding shall be deemed to have retired voluntarily.

**Rule 32. Effect of Denial.** ~~When there is a~~A judge's denial of ~~a Formal Statement of Charges relating to the~~all or part of the formal statement of charges alleging incapacity due to the judge's physical or mental condition ~~of~~shall constitute the ~~Respondent, by such denial the Respondent must be deemed~~judge's consent to ~~have consented~~submit to a ~~physical~~medical, psychiatric or mental~~psychological~~ examination by a ~~qualified medical practitioner designated by the Commission~~physician selected by the judge who is licensed to practice medicine in the State of Nevada.

## 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~~The Commission shall refer relevant information and ~~evidentiary matter~~evidence to the State Bar of Nevada ~~when it removes or retires a judge on grounds reflecting unfavorably on the judge's fitness to practice law in Nevada.~~

### **Rule 34. Appeal.**

34.1. A ~~Respondent~~judge 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.~~

~~\_\_\_\_\_~~ 34.2. ~~An appeal shall be taken by filing~~ A judge must file a notice of appeal with the ~~clerk of the~~ Commission clerk within ~~fifteen (15)~~thirty 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 and~~ findings of fact and conclusions of law. Upon the filing of the notice of appeal, the Commission clerk shall immediately transmit to the Nevada Supreme Court clerk two file-stamped copies of the notice of appeal.

~~34.3. Respondent may~~ The judge shall file an original transcript request all or a part form with the Commission clerk and one file-stamped copy of the transcript ~~within ten~~ ~~(10)~~ request form with the Nevada Supreme Court clerk no later than fourteen 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.~~

~~34.4. The cost~~ Filing, service, deposit and costs of the transcript ~~shall be assessed, as it relates~~ to the ~~Respondent when a final decision~~ judge, shall follow the procedures set forth in ~~discipline proceedings is adverse~~ the Nevada Rules of Appellate Procedure Rule 9.

## VIII. ADMINISTRATIVE PROVISIONS

### Rule 35. Expenses, Costs and Fees.

~~35.1.~~ Witnesses may be entitled to fees and mileage allowances in accordance with the Nevada Rules of Civil Procedure and NRS 50.

~~(a) In the event that Respondent is disciplined by~~ \_\_\_\_\_ A. \_\_\_\_\_ If the Commission disciplines a judge, the Commission may recover from ~~Respondent~~ the judge any incurred fees and mileage allowances of, and costs of services upon, witnesses ordered by the ~~Respondent~~ judge.

~~(b)~~ \_\_\_\_\_ B. \_\_\_\_\_ No ~~Judge~~ 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.**

~~36.1-~~ The Commission may amend and supplement these rules as it deems necessary. The Commission may seek comment from the public prior to amending or supplementing these rules at its discretion.

~~36.2-~~ The Commission may adopt procedures and policies for its internal operations ~~which are~~ consistent with these rules ~~and appropriate to its function.~~

**Rule 37. Computation of Time.** Time limitations ~~in these rules~~ shall be computed ~~as~~ in pursuant to 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).~~



EXHIBIT "A"

NEVADA COMMISSION ON JUDICIAL DISCIPLINE

PUBLIC CASE FILING PROCEDURES

PROCEDURE 1. FILING AND SERVICE

1. Rule 38. Public Case Filing Procedures. All documents required or permitted to be filed with the Commission in formal public cases and proceedings must strictly comply with these rules.

38.1 Filings and Service. The documents required or permitted to be filed with the Nevada Commission on Judicial Discipline ("Commission") shall be filed with its the Commission clerk as provided below.

A. Filing Filings in General. Filing Filings must be made by electronic means (email) to the Nevada Commission on Judicial Discipline at ncjdinfo@judicial.nv.gov. Filing Filings shall not be timely unless the documents are received by the Commission receives the documents within the time fixed for filing.

B. Service of all Papers Required. Copies Initial Filings. Service of all documents filed by any party at or before the time for filing, shall be served by a party or person acting for that party on all the formal statement of charges and any other parties to

~~the proceedings by electronic means (email). Service on a party represented by initial filings by the Commission or special counsel shall be made served on counsel. The complainant the judge as follows:~~

~~\_\_\_\_\_ (i) by delivering a copy of the formal statement of charges or other initial filing to the judge personally;~~

~~\_\_\_\_\_ (ii) by leaving a copy of the formal statement of charges or other initial filing at the judge's office, chambers or dwelling or usual place of abode with a person of suitable age and discretion who is not an adverse party to the judge being served;~~

~~\_\_\_\_\_ (iii) by delivering a party to any proceeding copy of the formal statement of charges or other initial filing to the judge's counsel of record; or~~

~~\_\_\_\_\_ (iv) if necessary, by publication.~~

\_\_\_\_\_ C. Proof of Service. Documents presented for filing shall contain an acknowledgement of service by the persons served or proof of service in the form of a statement of the date and manner of service and of the names of the persons served, certified by the person who made service. Proof of service ~~may~~shall appear on or be affixed to the documents filed.

\_\_\_\_\_ D. ~~Original~~ Signature and Bar Number Required. All documents submitted to the Commission for filing by a represented party shall include the electronic signature of at least one ~~(1)~~ attorney of record who is an active member of the State Bar of Nevada, and the attorney's address, telephone number, and State Bar of Nevada identification number ~~of the attorney and of any associate attorney appearing for the party filing the paper~~. All documents submitted to the Commission for filling by unrepresented parties shall include the party's electronic signature ~~of the party, and shall state the party's,~~ address and

telephone number.

\_\_\_\_\_ E. Caption. The caption of all documents filed with the Commission shall be styled as follows:

Attorney's Name *[Top Left Margin]*  
 Attorney's Firm Name  
 Bar Number  
 Street Address  
 City, State, Zip Code  
 Telephone Number  
*[2 line spaces]*  
 Attorney for *[Respondent or Commission]*  
*[4 line spaces]*  
 BEFORE THE NEVADA COMMISSION ON  
 JUDICIAL DISCIPLINE  
*[2 line spaces]*  
 STATE OF NEVADA  
*[2 line spaces]*

In the Matter of the \_\_\_\_\_ )  
 \_\_\_\_\_ )  
 Honorable *[Respondent Name]*, )  
*[Judge type, township, city and state,* ) Case No.  
 \_\_\_\_\_ )  
 Respondent. )  
 \_\_\_\_\_ )

**PROCEDURE 2. MOTIONS**

**1. \_\_\_\_\_ 38.2 Motions.**

A. Content of Motions; Response; Reply. Unless these rules require another form ~~is elsewhere prescribed by the Procedural Rules of the Commission~~, an application for an order or other relief shall be made by filing a motion for such order or relief with proof of service on all other parties. ~~The motion shall contain or be accompanied by any matter required by a specific provision of the Procedural Rules of the Commission or these Public Case Filing Procedures governing such a motion;~~ The motion shall state with

particularity the grounds on which it is based, and shall set forth the order or relief sought. If a motion is supported by briefs, affidavits or other papers, they shall be served and filed with the motion. Any party may file a response in opposition to a motion within ten ~~(10)~~ days after service of the motion. A reply to the opposition to a motion shall be filed within ~~three (3)~~seven days. The Commission may shorten or extend the time for responding to any motion. Upon the expiration of the time ~~period~~-as specified in this ~~procedure~~PRJDC 38.2 or such other time periods as the Commission may order, motions shall be deemed submitted to the Commission. Decisions on motions shall be made without oral argument unless otherwise ~~ordered by the Commission~~requested by a party and ordered by the Commission. The Commission shall rule on all pre-hearing motions filed sixty days before the hearing at least fourteen days prior to a hearing. If the Commission orders oral argument, the parties and Commission members shall be permitted to appear remotely for any pre-hearing motions.

B. 2.— Motions that May Cause a Delay in the Hearing. Any motion which by its nature could result in continuing or delaying any scheduled hearing must be filed and served via email at least ~~ten (10)~~thirty days prior to the date set for the hearing. Opposition to the motion must be filed and served via email within ~~three (3)~~seven days after service of the motion.- The motion shall stand submitted upon expiration of the time periods specified herein.

~~PROCEDURE~~ C. Service of Motions. Service of motions and other documents filed by a party to a proceeding before the Commission shall be served on all other parties by delivering a copy of the filed motion or document to the party via email and copying the Commission. A complainant is not a party to any proceeding.

38.3. EXTENSIONS OF TIME

~~4. Extensions of Time. Extensions of The Commission's executive director may extend for good cause the time limits set forth in these Public Case Filing Procedures or the Procedural Rules of the Commission may be granted by the General Counsel/Executive Director of the Commission for good cause shown rules.~~

~~PROCEDURE~~ 38.4. CHALLENGES FOR CAUSE

~~1. Procedure Challenges for Disqualifying a Commissioner. Cause.~~

~~A.~~ Any party to a Commission hearing or proceeding who seeks to disqualify a ~~commissioner~~Commission member or sitting alternate member for actual or implied bias or prejudice or other cause must file an affidavit specifying the facts upon which the disqualification is sought. A challenge for cause may be taken on any of the grounds relating to jurors enumerated in NRS 16.050, as applicable. The affidavit of a party represented by an attorney must be accompanied by a certificate of the attorney of record that the affidavit is filed in good faith and not interposed for delay. The affidavit must be filed ~~(whichever is the earlier date);~~not more than thirty days after service of the order setting hearing.

~~A.~~ ~~Not less than ten (10) days after service of~~ The Commission will forward the Order Setting Hearing; or

~~B.~~ ~~Not less than ten (10) days before the date set for consideration of any pretrial matter.~~

~~When the filed~~ affidavit is filed at the Commission office; a cop will be forwarded to the ~~commissioner~~Commission member sought to be disqualified.

~~3~~ B. The ~~commissioner~~Commission member against whom an affidavit

alleging bias or prejudice or other cause is filed, shall proceed no further with the matter and ~~shall~~ file a written answer with the Commission clerk ~~of the Commission~~ within five ~~(5)~~ days after ~~receipt of~~receiving the affidavit, admitting or denying ~~any or all of~~ the allegations ~~contained in the affidavit~~ and setting forth any additional facts ~~which bear~~ on the question of disqualification.

~~4. The question of the commissioner's disqualification must thereupon be heard and determined by the Commission in accordance with Rule 3 of the Procedural Rules of the Commission.~~

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Revised 06/2018

~~S:\WPDocs\RULES\June 2018 Revised Procedural Rules of the NCJD\_FINAL.docx~~ C. The Commission must hear and determine the Commission member's disqualification pursuant to PRJDC 3. The Commission may disqualify any member who by reason of actual or implied bias would either be prevented from adjudicating the matter in a fair and impartial manner or, due to an appearance of impropriety, be prevented from adjudicating the matter in a manner consistent with the public's confidence in the Commission. The Commission shall replace any disqualified Commission member with an alternate Commission member, if available.

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