

IN THE SUPREME COURT OF THE STATE OF NEVADA

In the Matter of the
HONORABLE ELIZABETH HALVERSON,
District Judge, Eighth Judicial
District Court, County of Clark,
State of Nevada,

Respondent.

Case No. 49876

FILED

JUL 25 2007

VALETTE M. BLOOM
CLERK OF SUPREME COURT
BY [Signature]
DEPUTY CLERK

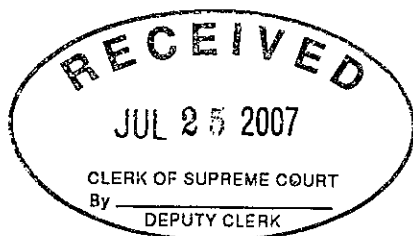
SEALED AND CERTIFIED COPY OF FINAL ORDER OF INTERIM SUSPENSION

Pursuant to Interim Commission Rule 28(2), I hereby certify that the document attached hereto is a true and correct copy of the FINAL ORDER OF INTERIM SUSPENSION adopted and filed by the Nevada Commission on Judicial Discipline on July 25, 2007.

DATED this 25th day of July, 2007.

NEVADA COMMISSION ON
JUDICIAL DISCIPLINE
P.O. Box 48
Carson City, NV 89702

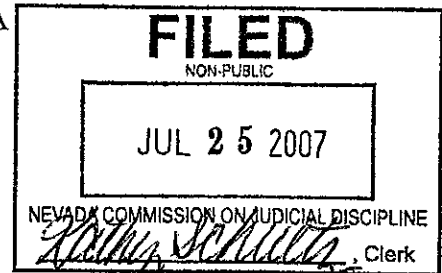
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General Counsel & Executive Director
Nevada Bar No. 0075



07-16325

BEFORE THE NEVADA COMMISSION ON JUDICIAL DISCIPLINE

STATE OF NEVADA



In the Matter of the

HONORABLE ELIZABETH HALVERSON,
District Judge, Eighth Judicial
District Court, County of Clark,
State of Nevada,

Respondent.

CASE NO. 2007-053

FINAL ORDER OF INTERIM SUSPENSION

The Commission on Judicial Discipline hereby suspends Eighth Judicial District Court Judge Elizabeth Halverson from the exercise of office pending a final determination in a judicial disciplinary proceeding. This suspension will be conditioned on the continued payment of the judge's salary. NRS 1.4675(3). Following a non-public hearing on July 16, 2007, the Commission has concluded that Judge Halverson poses a substantial threat of serious harm to the public and to the administration of justice.¹ This Order supersedes the Commission's original Order of Interim Suspension, entered on May 10, 2007. Additionally, the Commission hereby denies the respondent's Motion to Stay Interim Suspension, which was submitted at the conclusion of the July 16, 2007 hearing. The respondent may seek a stay of this order from the Supreme Court of the State of Nevada if and when she appeals the Commission's decision. NRS 1.4675(4).

A. The statutory law and Commission rules applicable to interim suspensions.

NRS 1.4675 states in pertinent part:

(3) The Commission may suspend a justice or judge from the exercise of office with salary if the Commission determines, pending a final determination in a judicial disciplinary proceeding,

¹ The following members participated in the hearing and the decision: Vice-Chairman Nave, Commissioner Jones, Commissioner (Judge) Polaha, Alternate Commissioner (Judge) Wagner, Commissioner Beasley and Commissioner Armstrong. The Chairman, Greg Ferraro, was unavoidably absent from the hearing and he did not participate in this decision. The Commission's Executive Director has requested the production of a transcript of the hearing. As of the time this order was issued, the transcript of the July 16, 2007 hearing had not been filed. It will be made available to the Nevada Supreme Court in the event of an appeal.

1 that the justice or judge poses a substantial threat of serious harm
2 to the public or to the administration of justice.

3 (4) A justice or judge suspended pursuant to this section may
4 appeal the suspension to the Supreme Court for reconsideration of
5 the order.

6 (5) The Commission may suspend a justice or judge pursuant to
7 this section only in accordance with its procedural rules.

8 Interim Rule 9 of the Commission's Procedural Rules states:

9 (1) The commission may suspend a judge or justice from the
10 exercise of office in accordance with NRS 1.4675 and NRS
11 1.4677(2).

12 (2) The commission shall give the respondent 7 days' notice of
13 its intention to suspend. The justice or judge may submit
14 documents in opposition to suspension which shall be considered
15 by the commission. A hearing may be granted upon request of the
16 respondent in the sole discretion of the commission.

17 (3) A respondent suspended under these rules may apply to the
18 Nevada Supreme Court for reconsideration of the order in
19 accordance with the rules and procedures established by that court.

20 (4) The commission shall promptly file a certified copy of the notice
21 of suspension with the clerk of the supreme court.

22 This action was initiated on April 25, 2007, when a complaint was filed against the
23 respondent with the Commission's clerk. On May 8, 2007, the complainant filed an addendum
24 to the complaint. The full Commission considered the complaint and addendum during a
25 telephonic meeting conducted on May 9, 2007. In addition to the motion regarding the interim
26 suspension, the Commission voted to investigate fully the allegations in the complaint and to
27 require the respondent to undergo both mental and physical examinations, pursuant to NRS
28 1.455 and 1.4665. The Commission issued the initial Order of Interim Suspension on May 10,
2007, and the judge's counsel accepted service of the order on May 16, 2007. The Commission
considered this the "notice" referenced in Commission Rule 9(2).

On May 25, 2007, Judge Halverson timely filed a request for a hearing on the interim
suspension issue. Therefore, the initial order did not become operative and Judge Halverson
continued to perform her judicial duties on an uninterrupted basis. The Commission scheduled a
hearing for June 21, 2007. On June 8, 2007, Judge Halverson requested a continuance. The
primary basis for the request was the unavailability of some of Judge Halverson's multiple
attorneys. One attorney, Mr. Arrascada, had a pre-planned family vacation. Another, Mr.

1 Gentile, was scheduled to begin a federal criminal trial that was likely to last three weeks. His
2 first possible available date was calculated to be July 16, 2007. Mr. Gentile's associate, Mr.
3 Gammage, who is the least experienced of the three attorneys, apparently was available at all
4 relevant times. The Commission granted Judge Halverson's motion for a continuance and
5 rescheduled the matter for hearing on July 16, 2007. The formal scheduling order that gave rise
6 to Judge Halverson's attempt to obtain a writ of prohibition, discussed below, was filed on
7 June 25, 2007.

8 **B. Common Law Regarding Interim Suspensions.**

9 The law as to the procedures to be followed in interim suspension matters is not fully
10 fleshed out, insofar as Nevada matters are concerned. As noted above, NRS 1.4673 merely
11 provides that there are certain circumstances under which an interim suspension is either
12 mandatory or discretionary. Because there has not been any criminal charge filed against the
13 respondent, the only subparagraph of NRS 1.4673 that is applicable to the current situation is
14 subparagraph (3), which states: "[T]he commission may suspend a justice or judge from the
15 exercise of office with salary if the commission determines, pending a final determination in a
16 judicial disciplinary proceeding, that the justice or judge poses a substantial threat of serious
17 harm to the public or to the administration of justice." The statute is silent as to what level of
18 proof is required, nor does it allocate the burden of proof. Likewise, the commission's rules and
19 procedures are silent on the issue. The Commission's rules specify that the Commission may
20 hold a hearing if one is requested. That process occurred here, once Judge Halverson requested a
21 hearing.

22 Nevada case law is silent on the issue of how such a hearing should be conducted and
23 which standards apply. Unfortunately, the Commission's evaluation of the rules from other
24 states do not shed much light on this interesting legal issue and thus, guidance from the
25 procedures used in other states is lacking. Some states have rules that authorize commissions to
26 either recommend or order interim suspensions. Most of those have rules authorizing review by
27 a state's highest court although there are some that merely authorize a commission to ask the
28 highest court (or its chief justice) to perform such a task, pending a final determination. The

1 written rules are uniformly silent about burdens of proof, burdens of persuasion and other such
2 legal minutiae although some provide for hearings and time schedules.

3 For example, Rule 2.14 of West Virginia's Rules of Judicial Disciplinary Procedure
4 provides for a suspension with or without pay following a hearing on the issue of temporary
5 suspension, after a finding of probable cause in lieu of a regular probable cause finding that is
6 normally issued after a complete investigation. Such a hearing requires notice to the judge
7 pertaining to the right to such a hearing, "said hearing to be in not less than 30 days; with the
8 judge provided notice of the hearing in not less than 20 days before the proceeding; . . ." *See, In*
9 *the Matter of: McCourt*, 633 S.E.2d 17 (W.Va. 2006) (in light of court's duty to ensure the
10 integrity of the state's judicial system, interim suspension without pay ordered despite ongoing
11 investigation, based on sufficient evidence that currently exists to believe that the respondent has
12 engaged in a serious violation of the code).

13 In *Gruenburg v. Kavanagh*, 413 F. Supp. 1132 (E.D. Mich. 1976), the federal district
14 court rejected due process arguments in a federal civil rights suit by a judge subjected to interim
15 removal proceedings. The court stated that the judge's right to hold judicial office derives from
16 state constitutional and statutory provisions, not the federal constitution or laws, and that the
17 state can set standards of conduct for those seeking to hold or run for elective office.² The court
18 went
19 on to say that Michigan's proceedings did not deprive the judge of "liberty" or "property"
20 contrary to due process. The Michigan disciplinary authorities proceeded without a hearing (and
21 apparently without oral argument), and the interim removal was effectuated after the judge had
22 notice and reasonable opportunity to respond to the complaint and petition for interim
23 suspension.

24 . . .

26 ² Controlling Nevada Supreme Court jurisprudence is to the contrary. In *Mosley v. Comm'n*
27 *on Judicial Discipline*, 117 Nev. 371, 378 (2001), the Court concluded that commissioned judges
28 in Nevada have a protected interest in their judicial offices under the Fourteenth Amendment of the
United States Constitution.

1 The federal judge concluded that “[A]n oral appearance in these circumstances is not an
2 essential ingredient of due process. This is especially true here, as Mich.Gen.Ct. Rule 932
3 provides for an elaborate and constitutionally adequate procedure for adjudication allegations of
4 judicial impropriety. Plaintiff is afforded the opportunity to be represented by counsel, to
5 examine and cross-examine witnesses, to present evidence, to submit briefs [and oral argument].
6 The interim suspension from his duties does not divest [the judge] of his employment. Plaintiff
7 continues to draw his salary during his suspension. His permanent removal will not occur, if it
8 occurs at all, until after he has been afforded a full and complete hearing. Since plaintiff does
9 not have a constitutional right to hold public office in the first instance, relieving him
10 temporarily from his duties and subsequently affording him a full opportunity to be heard does
11 not offend the due process clause of the fourteenth amendment. *Arnett v. Kennedy*, 416 U.S.
12 134, 157, 94 S.Ct. 1633, 1645 (1974).

13 Following the *Gruenburg* decision, a federal district court in Pennsylvania concluded that
14 “post-deprivation” hearing process must be offered in a timely fashion. *Fink v. Supreme Court*
15 *of Pennsylvania*, 654 F. Supp. 437 (M.D. Pa. 1987), *affd.*, 838 F. 2d 1205 (3d Cir. 1988). In
16 *Fink*, a state judge had been assigned to administrative duties by the state supreme court after the
17 states disciplinary board recommended that action. He asked the federal courts to enjoin the
18 state disciplinary action. While the federal district judge did not find a several month lapse in
19 the decision-making process on this issue to be “expeditious,” the court was satisfied that there
20 were adequate reasons for delay, including several continuances requested by the judge himself.
21 The federal judge concluded that the state judge/plaintiff had not shown a substantial likelihood
22 of success on the merits nor had he shown that he would be irreparably injured. The federal
23 judge did not address Pennsylvania’s argument the state supreme court would be hampered in
24 the administration of the court system and that the authority of the state supreme court would be
25 undermined if it were not allowed to take the necessary steps to stem the erosion of public
26 confidence in the Pennsylvania judiciary.

27 Following *Fink*, Pennsylvania’s disciplinary system was changed drastically and those
28 changes occasioned another challenge to an interim suspension. A state judge was charged in

1 state court with felony drug offenses. Under Pennsylvania law, unlike Nevada's current law, the
2 disciplinary body had discretion to impose a suspension with or without pay. The board
3 recommended a suspension with pay, and it requested that if the judge were convicted in his
4 criminal trial, the suspension should be converted to one without pay.³ The Pennsylvania
5 Supreme Court construed the board's argument to be that the original interim suspension should
6 be one without pay upon the filing of a felony charge, and that such a suspension should be
7 automatically converted to a suspension without pay upon a finding of guilt, absent extraordinary
8 circumstances. *In re Justice Rolf Larsen*, 655 A.2d 239 (Pa. 1995).

9 In *Larsen*, The Pennsylvania Supreme Court rejected the board's *per se* rule, opting
10 instead for a totality of the circumstances test it thought to be more appropriate, with each case
11 being decided on its own facts. It said that "[A]mong the factors to be considered are the nature
12 of the crime charged, its relation, or lack thereof to the duties of the responding judicial officer,
13 the impact or possible impact on the administration of justice in this Commonwealth, the harm or
14 possible harm to the public confidence in the judiciary as well as any other circumstances
15 relevant to the conduct in question."

16 Subsequent to *Larsen*, the Pennsylvania Supreme Court had occasion to visit the question
17 of burden of proof. Noting that its constitution was silent on the issue, the court concluded that
18 the burden of proving formal charges was allocated to the board, at the level of clear and
19 convincing evidence. The high court concluded "this constitutional abjuration was intended to
20 clothe respondents in interim proceedings such as this with the presumption of innocence, and,
21 although we do not conclude that, in these proceedings, the Board's burden should be to
22 persuade this Court by clear and convincing evidence, we now hold that it is the Board's burden
23 to persuade the Court that the totality of the circumstances requires the entry of an interim order
24 of suspension." *In re Michael D. Smith*, 712 A.2d 849 (Pa. 1998). (Emphasis added).

25 ...

26
27 ³ The judge was ultimately acquitted of some charges but found guilty of conspiring with his
28 personal physician to obtain a controlled substance by misrepresentation, fraud, forgery, deception
or subterfuge.

1 Subsequent to *Smith*, the Pennsylvania Supreme Court had occasion to reconsider some
2 of what it had said in that case. In the case of *In re Joseph A. Jaffe*, 814 A.2d 308 (Pa. 2003),
3 cited by the Nevada Supreme Court in Judge Halverson's extraordinary writ proceeding,
4 Pennsylvania's highest court considered Judge Jaffe's challenge to the Board's request for an
5 interim suspension without pay based on the indictment that was returned against him by a
6 federal grand jury for extorting money from lawyers. The court first observed that pre-
7 termination proceedings are different than pre-suspension proceedings. The court concluded that
8 even the limited procedures mandated by the *United States Supreme Court in Cleveland Bd. of*
9 *Ed. v. Loudermill*, 470 U.S. 532, 105 S.Ct. 1487 (1985) for pre-termination proceedings against
10 public employees do not apply in pre-suspension proceedings such as interim suspensions.

11 The *Jaffe* court then went on to rescind some of its dicta from *Smith* by rejecting "the
12 notion that the presumption of innocence extends to respondents in interim proceedings." It
13 rejected Judge Jaffe's call to afford him that presumption at the early stage of the proceedings by
14 saying the following:

15 Making the presumption of innocence a *sine qua non* in
16 these proceedings would *ipso facto* require a hearing for, in such
17 case, the Board would be compelled to produce some evidence in
18 order to overcome the presumption. This, as we have said, would
19 contravene the fundamental plan of the Constitution and nullify
20 §18(d)(2) of Article V which specifically authorizes the entry of
21 temporary, "interim" orders "prior to a hearing."

22 Moreover, a "presumption of innocence," in these interim
23 proceedings, would be incongruous, for, in these interim
24 proceedings we are not to engage in a determination of *guilt v.*
25 *innocence*; we engage in a determination of whether the totality of
26 circumstances requires that a judicial officer charged with felonies
27 be suspended with or without pay.

28 Compare, *In re: Worthen*, 926 P.2d 853 (Utah 1996) (while general standard of proof in judicial
discipline cases will be the same as in attorney discipline cases, i.e., a preponderance of the
evidence, if interim suspension is sought the standard of proof is by clear and convincing
evidence).

The Commission is also informed by the recent observations of another state's highest
court in the context of a situation in which a judge was charged with committing a crime. The

1 comments are in the same vein as those made by the *Jaffe* court:

2 Always mindful of the primary consideration of protecting
3 the honor, integrity, dignity, and efficiency of the judiciary and the
4 justice system, this Court, in determining whether to suspend a
5 judicial officer with or without pay, should consider various
6 factors, including, but not limited to, (1) whether the charges of
7 misconduct are directly related to the administration of justice or
8 the public's perception of the administration of justice, (2) whether
the circumstances underlying the charges of misconduct are
entirely personal in nature or whether they relate to the judicial
officer's public persona, (3) whether the charges of misconduct
involve violence or a callous disregard for our system of justice,
(4) whether the judicial officer has been criminally indicted, and
(5) any mitigating or compounding factors which might exist.

9 *In the Matter of Cruickshanks*, ____ S.E. 2d ____, 2007 WL 1660864, W. Va., June 6, 2007, No.
10 33336.

11 In light of the Nevada Supreme Court's reference to the *Jaffe* case, and having
12 considered the foregoing common law developments in other jurisdictions, this Commission has
13 settled on requiring the Special Counsel to prove by a preponderance of the evidence that interim
14 suspension is warranted, considering the totality of circumstances.

15 **C. Previous Nevada Supreme Court Proceedings Bearing on the Commission's Hearing**
16 **Process.**

17 **1. Judge Halverson's Extraordinary Writ Petition.**

18 On July 13, 2007, after 5:00 p.m., the Commission's clerk received two orders in two
19 separately filed cases filed by different petitioners in the Nevada Supreme Court. Most
20 importantly, the Commission received the Nevada Supreme Court's Order Denying Petition for
21 Writ of Prohibition and Unsealing Record in this Matter, in Case Number 49788, entitled *The*
22 *Honorable Elizabeth Halverson, Eighth Judicial District Court Judge v. Nevada Commission on*
23 *Judicial Discipline*. In the order, the Supreme Court impliedly refused to stop the impending
24 interim suspension hearing scheduled for Monday, July 16, 2007, at 9:30 a.m. It expressly
25 refused to issue a writ regarding the Commission's earlier refusal to issue certain subpoenas
26 requested by Judge Halverson although it characterized this ruling as "somewhat troublesome"
27 because the Commission declined to do so "without any stated reason."

28 ...

1 Additionally, the Nevada Supreme Court also refused to issue the writ based on the
2 challenge to a portion of its June 25, 2007 scheduling order, which allocated a burden of proof to
3 the respondent once the Special Counsel met her burden of proof to adduce evidence sufficient to
4 convince the Commission by a preponderance of evidence that the respondent poses a substantial
5 threat of serious harm to the public or a substantial threat of serious harm to the administration of
6 justice. In a footnote, citing *In re Jaffe*, 814 A.2d 308, 317 (Pa. Ct. Jud. Disc. 2003), the Nevada
7 Supreme Court stated: "The judge bears no burden." It also set forth what the Commission
8 construed as the applicable standard for allocating the burden, that is, by requiring the Special
9 Counsel to demonstrate that interim suspension is warranted based on the totality of
10 circumstances.

11 At the beginning of the hearing, before any testimony or other oral motions were
12 entertained, the Presiding Officer, Commissioner (Judge) Richard Wagner, clarified the record
13 regarding both issues. He stated on the record that he had denied several subpoenas requested by
14 Judge Halverson because the requests were overly broad, they sought information about court
15 employees and jurists that would impact their privacy if released, and they were irrelevant to the
16 interim suspension proceeding before the Commission. It should be noted that the requests were
17 to be directed to no less than seven people, including the chief judge and the administrator of the
18 Eighth Judicial District Court, as well as the person in charge of the Clark County Office of
19 Diversity. Each sought the following records: "[A]ny and all documents tending to show the
20 existence and nature of any and all complaints filed on or after January of 2004 to present by
21 court employees regarding the conduct of any magistrate, Commissioner, Justice Court Judge,
22 District Court Judge or Supreme Court Justice." A separate request that was to be directed to an
23 Elko County jurist, District Judge Michael Memeo, suggested that Judge Memeo was to produce
24 "[A]ny and all documents tending to show efforts made on behalf of the Nevada Commission on
25 Judicial Discipline to suspend you as a sitting judge pursuant to their [SIC] authority."

26 As to Judge Memeo, while he was charged publicly in Commission proceedings
27 with an incident that properly could be characterized as sexual harassment of a staff member, the
28 Commission ultimately found that the evidence did not sustain the charge because it was

1 not proved by clear and convincing evidence. *In the Matter of the Honorable Michael Memeo,*
2 *District Judge, Fourth Judicial District Court, County of Elko, State of Nevada, Findings of*
3 *Fact, Conclusions of Law and Order (12/26/06), at [http://www.judicial.state.nv.us/](http://www.judicial.state.nv.us/decisionsofncjd3new.htm)*
4 *decisionsofncjd3new.htm.* More importantly, the Commission does not believe that it is
5 appropriate for Judge Halverson, who is a respondent in the present Commission proceeding, to
6 compel information via subpoena directly from Judge Memeo merely because Judge Memeo
7 may have been the subject of a similar allegation by a person or persons who have no nexus to
8 Judge Halverson.⁴ The Commission is not inclined to engage in evaluation of what it did or
9 didn't do to alter Judge Memeo's status in advance of Judge Memeo's public hearing, i.e.,
10 whether it did or did not consider suspension or actually suspend him on an interim basis.⁵ Such
11 comparison evidence has virtually no bearing on the particular facts of Judge Halverson's case or
12 on the Commission's duty to evaluate whether, under the totality of circumstances, Judge
13 Halverson poses a threat such that she should be suspended on an interim basis.

14 As to the other requests by Judge Halverson seeking compelled information about
15 whether other staff members had complained about other judges to Clark County's court
16 administrators or the Office of Diversity, the requests should be considered to be nothing more
17 than a fishing expedition. This case is about Judge Halverson's behavior, not that of other
18 judges. In part, this case is about whether Judge Halverson mistreated or abused her personal
19 staff members to the point where she should be considered a threat and whether she should be
20 held responsible for that situation in the interim, pending completion of a full investigation. In
21 short, whether other judges may have been the subject of complaints at the county level by other

22
23 ⁴ There is no indication that Judge Halverson sought to obtain information from Judge
24 Memeo merely by asking him for it.

25 ⁵ There is no public record of an interim suspension order pertaining to Judge Memeo
26 because he was never suspended by the Commission on an interim basis, or for any other period of
27 time. Any such order in his case, in this case or any other case presumably would be made public
28 by the Nevada Supreme Court because of the requirement for the Commission to file with the court
any interim suspension order that has taken effect, especially in light of the Court's determination
that its governing case law mandates that proceedings be open to the public. *Attorney General v.*
Steffen, 112 Nev. 369, 373-74, 915 P.2d 245, 248 (1996).

1 persons who have no nexus to Judge Halverson's present predicament has no bearing on the
2 Commission's evaluation of her case.

3 As for the burden of proof issue, more about that issue will be discussed at a later point in
4 this order. Suffice it to say that Commissioner Wagner stated on the record at the July 16, 2007
5 hearing that the Commission allocated the burden of proof only to the Special Counsel, Ms.
6 Dorothy Nash Holmes. He further stated that Judge Halverson still would be given the
7 opportunity to present witnesses and evidence that might impact on the Commission's
8 determination. Judge Halverson took advantage of that offer by presenting several witnesses and
9 some documentary evidence. At no time during the hearing or during the deliberation process
10 did the Commission allocate any burden of proof to Judge Halverson.⁶

11 Although the Nevada Supreme Court did not address expressly one argument made by
12 Judge Halverson, the Commission believes it necessary to comment on that specific contention.
13 In a document entitled Emergency Supplemental Addendum to Petition for a Writ of Prohibition,
14 or in the Alternative a Writ of Mandamus, Judge Halverson complained that the Commission had
15 produced investigative documents "late." She specifically contended that the Commission had
16 delivered a "Fifth Supplemental Exhibit Production" during the afternoon of Friday, July 13,

17
18 ⁶ Due to a dispute about the authenticity and accuracy of a transcription of a media interview
19 in which the respondent supposedly was involved, an evidentiary dispute arose during the course
20 of the hearing. There was some debate on the record about whether Judge Halverson could be
21 compelled to authenticate either a written transcription or an audio version of the interview. While
22 Judge Halverson's counsel contended she could not be compelled to do so due to Fifth Amendment
23 concerns, the Special Counsel did not ask the Commission to compel Judge Halverson to testify
24 about the transcript or any other matter, nor did the Commission do so *sua sponte*. Ultimately, the
25 Presiding Officer rejected the Special Counsel's offer of the evidence as "self-authenticating" and
26 the issue as to whether Judge Halverson should have to testify never arose. Thus, a different issue,
27 i.e., whether merely requiring a judge to authenticate evidence offered by the Special Counsel
28 allocates to the judge any burden, was avoided for the present. Whether that issue will arise in the
future is unknown but if it does, it appears that it might generate argument as to whether there is
some relationship to the aforementioned burden of proof issue upon which the Court issued a
clarifying statement when it disposed of Judge Halverson's petition. Generally speaking, the
Commission intends in this case and others to adhere to the Nevada Supreme Court's holding that
it is permissible for the Commission to consider whether a judge wrongfully asserts their Fifth
Amendment privilege even though a judge has the right to invoke where there is a plausible claim
of self-incrimination. *Matter of Davis*, 113 Nev.1204, 946 P.2d 1033 (1997).

1 2007. She argued that this was a “continuing example of the fundamental unfairness of these
2 proceedings which consequently violate Judge Halverson [SIC] right to due process.”

3 This arguments seriously misapprehends the current procedural posture of this case. At
4 the outset of these proceedings, when the Commission first notified Judge Halverson and her
5 counsel of its intent to suspend her on an interim basis, the Commission also notified her that the
6 Commission had initiated an investigation. Starting with the second set of investigative
7 materials, and to the present, the Commission’s Executive Director had been delivering
8 investigative materials to Judge Halverson’s attorneys and to the Special Counsel in rapid
9 fashion. In the case of the fifth set mentioned above, they were delivered to Mr. Arrascada
10 within hours of receipt in the Commission offices in Carson City, once they were catalogued and
11 indexed.

12 There is no requirement that the Commission provide all its investigative information to a
13 judge to allow her to contest an interim suspension action. The Commission’s rules expressly
14 provide for their delivery only if and when the process reaches the point where the Commission
15 requires a judge to formally answer a complaint in a non-public forum. This step is a
16 precondition to the Commission’s determination on one issue, that is, whether there is a
17 reasonable probability the evidence available for introduction at a formal hearing could clearly
18 and convincingly establish grounds for disciplinary action. Commission Rule 12(2).

19 Then and only then do the rules require the following:

20 In preparing to oppose a determination of reasonable probability,
21 the respondent has the right to inspect all records of the
22 commission relating to the disciplinary action against the
23 respondent and to be fully advised as to the contents of the
24 administrative record considered by the commission determining
25 that there was sufficient reason for reasonable probability.
Privileged communications and work product of the commission’s
counsel are not subject to inspection. To the extent practicable, the
respondent shall be supplied with all records of the commission
subject to inspection along with service of the complaint.

26 Commission Rule 12(4).

27 In its sole discretion, the Commission has directed the Executive Director to ensure that
28 Judge Halverson is provided with investigative materials so that she is aware of ongoing

1 developments in the investigation. Nevertheless, Judge Halverson chooses to attack the
2 Commission's process by contending that she does not have time to digest all the information
3 that the rules don't even entitle her to have at this juncture. The interim suspension process
4 obviously is designed to move with some rapidity and it is not meant to be replete with all the
5 same due process protections that a full, public hearing may entail. Yet Judge Halverson seems
6 to believe that the process should be delayed—perhaps interminably—so that she and her attorneys
7 can leisurely sift through the materials as they would in preparation for a trial on the substantive
8 merits. To follow her illogic to its extreme end, the Commission would theoretically violate her
9 rights by not having a case fully investigated and the investigative materials tendered before it
10 can decide whether to initiate an action to remove her on an interim basis.

11 In the Commission's view, this argument lacks legal merit and transparently
12 demonstrates Judge Halverson's desperation at having to face a hearing at all. The Commission
13 did not have to conduct a hearing to decide this issue. Yet it exercised its discretion to give the
14 respondent an opportunity to be heard. Then, based solely on the convenience and respective
15 schedules of her lawyers, the Commission granted Judge Halverson nearly one month to prepare
16 for the hearing that ultimately took place on July 16, 2007. All the while, the Commission
17 continued to investigate the case and turn over information to the respondent so she would not be
18 caught by surprise. In the Commission's view, she is not entitled to any more accommodation
19 than she has already received. Her argument about having been treated unfairly because she
20 continues to receive investigative information as it is generated may be charitably characterized
21 as patently meritless.

22 **2. Witness Ileen Spoor's Extraordinary Writ Petition.**

23 On Friday, July 13, 2007, the Commission also received the Nevada Supreme Court's
24 Order Denying Petition for Writ of Mandamus and Unsealing Record in this Matter, Case
25 Number 49790, entitled *Ileen Spoor v. Nevada Commission on Judicial Discipline*. The order
26 pertains to an attempt by a witness, Ileen Spoor, to condition her testimony at the July 16, 2007
27 hearing on the active participation of her attorney; or alternatively, to totally prohibit the
28 Commission from having her testify so as to avoid cross-examination by Judge Halverson's

1 counsel. The Court declined to intervene. Subsequently, the Commission conducted the hearing
2 as scheduled. Ms. Spoor, who served for a few months early in 2007 as Judge Halverson's
3 Judicial Executive Assistant, testified upon the call of the Special Counsel. There was no further
4 dispute about her testimony and Ms. Spoor answered questions on direct and cross-examination.

5 **D. Findings Relative to the Respondent's Current Status as a Jurist Who Poses a Present**
6 **Substantial Threat of Serious Harm to the Public and to the Administration of Justice.**

7 Initially, based solely on the allegations in the complaint, the Commission concluded that
8 it was necessary to suspend the respondent on an interim basis for the following reasons:

- 9 1) There is substantial evidence to believe that Judge Halverson is without sufficient
10 legal abilities to conduct trials in criminal cases without threat of serious harm to
11 the public or the administration of justice;
- 12 2) There is substantial evidence to believe that Judge Halverson has failed to
13 perform the duties of judicial office impartially and diligently in that there is
14 substantial evidence that she has not treated staff and litigants with patience,
15 dignity or courtesy. Further there is substantial evidence that she has treated staff
16 to a hostile work environment and sexual harassment to the extent that there is a
17 serious threat to the administration of justice;
- 18 3) There is substantial evidence that Judge Halverson has failed to diligently
19 perform her duties by falling asleep at least on one occasion and possibly more
20 while on the bench during a jury trial;
- 21 4) There is substantial evidence that Judge Halverson failed to impartially perform
22 her duties and being openly biased towards certain attorneys;
- 23 5) There is substantial evidence to believe that Judge Halverson failed to diligently
24 carry out the duties of her office and failing to cooperate with other judges and
25 court administrators; and,
- 26 6) There is substantial evidence to believe that Judge Halverson has failed to dispose
27 of all judicial matters promptly, efficiently and fairly.

28 ...

1 However, after hearing the evidence submitted by both the Special Counsel and Judge Halverson
2 at the July 16, 2007 hearing, the Commission has concluded that sufficient proof exists at this
3 time only as to items 1, 2, 3 and 5.

4 **1. The issue of ability to conduct criminal trials.**

5 Testimony from several witnesses, including past members of the respondent's personal
6 staff, established that she initiated contact with jurors in at least two criminal trials. In each
7 instance, the prosecutor and the defense attorney were not present. In one, the judge conferred
8 with jurors on the record and answered a number of questions about criminal procedure that
9 should not have been answered at all. In another, perhaps believing that the lawyers had
10 encouraged her to do so, the respondent spoke to jurors off the record at a time when the jurors
11 were unable to reach a unanimous verdict. At least once, the judge decided to dine with the
12 jurors in the courtroom during the course of the trial—an event unheard of as far as the
13 commissioners participating in this case are aware.

14 According to witness Stewart Bell, the Presiding Criminal Judge in the same court, these
15 instances followed on the heels of complaints and or other input from both prosecutors and
16 defense lawyers about certain things the respondent was doing. In at least one instance, the
17 respondent proposed to alter a procedure in force in virtually every other court. When she
18 discussed the matter with Judge Bell, he explained to her why the process would not work the
19 way she envisioned it, she took his advice and reverted to the already established method of
20 handling the issue. Unfortunately, this appeared to be an isolated instance of Judge Halverson
21 seeking and following guidance from those who have good guidance to proffer.

22 Contrary to her argument during the hearing, Judge Halverson's contacts with the jurors
23 exposed the jurors to undue influence that cannot be corrected on appeal. The State simply has
24 no viable mechanism to appeal a judge's actions, particularly where neither side is aware of a
25 contact by the judge until the following week.⁷ In the case involving prosecutor and witness Lisa

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27 ⁷ One incident involved the judge's *ex parte* question and answer session with the jurors on
28 a Friday afternoon, which did not become known to the attorneys until the following week when the
respondent disclosed what had occurred.

1 Luzaich-Rego, the jury decided to acquit the defendant on several counts and it could not reach a
2 verdict as to several others. It can never be known for certain to what extent the improper
3 contact impacted the jury but it is equally clear that despite Judge Halverson's status as a new
4 judge at the time, the situation never would have arisen if Judge Halverson had exercised even a
5 modicum of good judgment by involving the experienced attorneys handling the case and by
6 making a record of exactly what she was going to do before she did it. To the extent that Judge
7 Halverson might have contacted the jury after mistakenly relying on what she thought a pair of
8 opposing attorneys meant when they told her to find out what the problem was with a verdict
9 form, the Commission notes that it would have been relatively simple to make it crystal clear on
10 the record that the attorneys were or were not acceding to her *ex parte* contact with the jury.
11 Instead, she proceeded with the contact that ultimately led to a problematic end to the trial.

12 Although there is not great detail in the record at this point, it is clear that the chief judge,
13 Judge Kathy Hardcastle, took what appears to the Commission to be reasonable, practical steps
14 to ensure that Judge Halverson be removed from the criminal case arena until she gained more
15 experience as a judge. At least in part, this occurred as the result of input from a committee of
16 Judge Halverson's fellow judges. Judge Bell's testimony made it clear that Judge Halverson
17 agreed to meet with a committee of three judges appointed by Chief Judge Hardcastle, but that
18 the respondent met with them only once. Although the focus of the committee, consisting of
19 Judge Sally Loehrer, Judge Art Ritchie and Judge Bell seems to have been on allegations of
20 mistreatment by staff members, case handling was a concern as well.

21 Ultimately, Judge Hardcastle reassigned entire caseloads so that Judge Halverson would
22 handle only civil matters while other judges would be assigned the criminal cases once assigned
23 to Judge Halverson. It appears that the Nevada Supreme Court might have to decide whether
24 this step, and perhaps others, were permissible under the powers granted to the chief district
25 judge. The Commission is not in a position to decide the issue nor need it do so at this juncture
26 to decide whether a suspension is warranted.

27 What the Commission can and does decide at this time is that the convergence of three
28 factors—Judge Halverson's inexperience with criminal law in general, her general inexperience as

1 a judge, and her demonstrated poor judgment overall--creates an undue risk of serious harm to
2 the administration of justice. In the worst case, once cases are mangled due to judicial errors,
3 criminals who pose a threat to the public could be freed sooner than they otherwise would be
4 without those errors, or freed entirely when they otherwise would have been incarcerated in
5 order to protect the public. In at least one case, a child thought to be a victim of a sex offense
6 may have to experience another trial due to the judge's alleged error. In other instances,
7 prosecutors may well be forced to conclude that they have no reasonable choice but to negotiate
8 a case to a less successful outcome if a judge with the propensity for major errors of the kind
9 made by Judge Halverson has put the case at risk entirely due to a major error in a particular
10 case, especially if there is a probability that more will occur. Similarly, defendants would be
11 faced with the prospect of having to undergo multiple trials unnecessarily because of major
12 errors on the part of an inexperienced and/or inattentive judge.

13 Although Judge Halverson did not argue the point directly, one could contend that
14 because she has been reassigned to only a civil case load, she does not pose a threat to the
15 administration of justice. In that regard, the Commission notes with interest the testimony of
16 witness Charles "Chuck" Short, the court administrator for Clark County. He provided telling
17 statistical evidence about the impact of transferring a full civil case load to Judge Halverson,
18 rather than a one-half civil, one-half criminal case load. While in January through April 2007
19 the total number (48) of peremptory challenges filed against her in civil cases constituted
20 approximately 24% of the total of all such challenges, in May and June of 2007 the number
21 (151) of peremptory challenges against Judge Halverson skyrocketed and far exceeded the
22 number (53) filed against other judges combined. While Judge Halverson's counsel argued that
23 she has no control over what attorneys, law firms or parties decide to remove her via a
24 peremptory challenge, the Commission concludes that the statistics reveal a distinct unease in
25 Clark County about Judge Halverson's ability to handle even civil matters. While the
26 Commission understands that a large amount of publicity about Judge Halverson's public dispute
27 with Chief Judge Hardcastle may have generated statistics that she contends are anomalous or
28 insignificant, the Commission concludes that in this particular situation, the statistics reveal a

1 valid basis to question whether she poses a threat to the administration of justice even in her new
2 assignment.

3 The Commission also observes that Judge Halverson spent a considerable amount of time
4 trying to downplay the importance of the numerous peremptory challenges because the system in
5 place reassigns her additional cases to balance the case load among the judges. The argument
6 misses the point that such challenges generate a considerable amount of work and expense on the
7 part of court staff members, not to mention the expense incurred by the party who has to pay the
8 fee required to even file such a challenge. In short, it may be said that the constant churning of
9 cases occasioned by Judge Halverson's frequent removal from them due to the peremptory
10 challenge mechanism is, in itself, problematic. At the least, it is persuasive evidence that the
11 administration of justice has been impacted greatly by Judge Halverson's involvement in it.

12 **2. The issue of treating staff inappropriately and creating a hostile work**
13 **environment.**

14 While the Commission believes that Judge Halverson's handling of criminal matters is
15 troublesome to the point of warranting suspension, the Commission also believes that her
16 handling of personnel matters is even more problematic. Indeed, the compelling and credible
17 evidence presented in just one day supports only one reasonable conclusion, that is, that Judge
18 Halverson has mistreated staff to a significant degree and she has acted in a wholly inappropriate
19 manner on frequent occasions, thereby creating a hostile work environment.

20 Johnny Jordan testified at the hearing. Mr. Jordan is a black male. Judge Halverson is a
21 white female. He did not have prior experience as a bailiff when Judge Halverson hired him
22 following the departure of her predecessor judge in Department 23, former District Judge and
23 now Nevada Supreme Court Justice Michael Cherry. Based on conversations with other bailiffs
24 and Judge Halverson herself, Mr. Jordan concluded early on that his job description entailed
25 doing whatever satisfied the judge, at least at a given moment in time. Due to certain physical
26 limitations on Judge Halverson's part, Mr. Jordan apparently knew that at least occasionally, he

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28 . . .

1 would be required to assist her in changing her shoes.⁸ However, his role soon evolved into what
2 Mr. Jordan stridently characterized as one of "housesnigger."

3 Mr. Jordan was required to keep ice in the judge's water at the level she deemed suitable.
4 She routinely directed him to heat and serve her lunch in chambers. This duty often caused him
5 to miss lunch himself. She directed him to cover her with a blanket at times when she deemed it
6 necessary to rest in her chambers. She directed him to pick up papers off the floor when she
7 threw them there. She directed him to straighten her robe where it was hanging when a portion
8 of it was exposed to her view, apparently much to her dislike. She expected and directed him to
9 escort her to her car when she deemed it necessary, most commonly when her husband "Ed" did
10 not perform those duties. She expected him to act as a "spy" toward other court personnel, a role
11 in which he declined to serve. On at least one occasion, she directed him to rub her neck/back
12 area.

13 She punished him for writing a letter on court time by requiring him to sit with her in her
14 chambers. She routinely yelled at him and used foul language to describe various groups (other
15 bailiffs were "bitches" and husband Ed was a "fucker"). She inhibited his enrollment in a
16 mandatory course for bailiffs, to wit, the Peace Officer Standards and Training ("POST") course,
17 although he was allowed to attend the course on his personal time.⁹ She expected him to work
18 exceedingly long hours, which would routinely last from 6:30 a.m. until long after 5:00 p.m.
19 This would occur even in situations when there was no jury for him to take charge of, and he
20

21 ⁸ Although lead counsel for Judge Halverson, Mr. Arrascada, frequently referred witnesses
22 to what he characterized as Judge Halverson's "recognized" disabilities under the Americans with
23 Disabilities Act, he never proffered any direct evidence to explain exactly what those disabilities are.
24 It is evident to the Commission that Judge Halverson is a very large woman and an objective
25 observer could fairly describe her as significantly overweight. She also rides a motorized vehicle
and uses an oxygen system to assist her breathing. There was also a passing reference to her diabetic
condition. However, there is no medical evidence in the record to substantiate exactly which of her
medical problems, among several possible, constitute "recognized" disabilities.

26 ⁹ When questioned by Ms. Holmes about why he did not complete POST, Mr. Jordan
27 reported that he had a heart attack. He is now serving in the Family Court in a position other than
28 bailiff. The Commission finds his explanation credible and declines to draw any inference about
his failure to finish other than that he was physically unable to do so.

1 would just as routinely not be paid for working overtime. In one instance when he had to drive
2 her to a function attended by other judges, she inappropriately laid her arm behind his neck.
3 Judge Halverson stated to Mr. Jordan's girlfriend that Mr. Jordan was the judge's man during the
4 day while he was his girlfriend's man at night.

5 It is not at all surprising to the Commission that Mr. Jordan felt compelled to file a
6 complaint with the Clark County Office of Diversity. This led to a sequence of events whereby
7 Mr. Jordan shared this information about his treatment with the aforementioned three-judge
8 panel, and the court administrators took the necessary steps to extract Mr. Jordan from his
9 assignment which was characterized as "at will."

10 Ileen Spoor also testified. Ms. Spoor had served as Judge Cherry's JEA and was a hold-
11 over from his administration. According to her, she initially wanted to assist Judge Halverson
12 but she soon found herself at odds with the judge. Apparently, the judge suspected her of
13 improperly communicating with Judge Cherry and perhaps others about Judge Halverson's
14 performance and behavior. This led to an incident in which Judge Halverson required her court
15 clerk, Ms. Streuber, to place Ms. Spoor under oath in chambers to answer Judge Halverson's
16 questions about what Ms. Spoor had been saying to others or what others had been saying to her.
17 This was not an isolated incident. Judge Halverson also required Ms. Streuber to swear in "Ed"
18 or Mr. Halverson, to answer the judge's questions about matters related to certain duties she
19 expected him to perform in the course of their marital relationship. The Commission is unaware
20 of any law that authorizes a judicial officer to utilize her power to administer oaths in order to
21 inquire into such topics in her chambers or elsewhere.

22 Ms. Spoor also confirmed that she was the last of the original staff members Judge
23 Halverson had hired when she arrived in January 2007. Judge Halverson fired her first law
24 clerk, Lisa Carroll, who she criticized in front of others and to whom she referred as a "faux
25 Jew."¹⁰ Judge Halverson also became unhappy with her court recorder, Mr. Kangas, because she

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27 ¹⁰ Even though the Commission finds insufficient evidence to conclude that the judge had
28 not filed orders or taken steps to keep track of what draft orders were expected from attorneys, the
Commission credits testimony in the record regarding the Judge's habit of brusquely refusing to

1 apparently thought that by his use of the court-administered JAVS system, he was helping to spy
2 on her. Understandably, Mr. Kangas ultimately found another position within the court, as did
3 Ms. Streuber. Finally, after Mr. Jordan had been removed by court administration, Judge
4 Halverson fired Ms. Spoor, apparently in part due to the judge's suspicion that Ms. Spoor was
5 "fixing tickets" out of her chamber. While the Special Counsel and Judge Halverson's counsel
6 did not spend much of their limited time at the hearing on the topic of "ticket fixing," suffice it to
7 say at this juncture that there is no indication that Ms. Spoor did anything criminally illegal.
8 While it may be argued that Ms. Spoor's inappropriate use of county time to help friends and
9 others locate counsel to assist them in traffic matters in limited jurisdiction courts was not the
10 business of the district court, that particular issue has little bearing on her credibility before this
11 body.¹¹ While it is evident that Ms. Spoor has sued the judge for what she believes to be
12 defamatory statements, in the estimation of the Commission that fact has little bearing at this
13 time on the essential accuracy of Ms. Spoor's description of events as it relates to the events of
14 interest to this body.

15 In contrast to this evidence, Judge Halverson submitted the testimony of several of her
16 current staff members. Most have been working for her for no more than three months. The
17 overall tenor of their testimony is that to date, Judge Halverson has treated them with respect and
18 she has conducted herself in a professional manner. However, what is most telling about their
19 testimony both individually and collectively, is the lack of information it sheds on the events
20 described by the first set of staff members who were mistreated by Judge Halverson. Not one of
21 the new staff members even addressed the events described by Mr. Jordan and Ms. Spoor.
22 Perhaps the most likely reason is as newcomers to the department, they do not have any personal
23 knowledge about that time frame or the events in question; and as current employees they have a

24 explain to Lisa why the judge would not accept orders submitted to her. This behavior was fully
25 consistent with her larger pattern of dictatorial and domineering behavior toward her staff members.

26
27 ¹¹ Presumably, since the chief judge and court administrator are aware of the "ticket fixing"
28 allegation, they can take appropriate steps to ensure that court personnel do not become involved
in activity that might have even the appearance of impropriety.

1 vested interest in not alienating Judge Halverson.

2 Be that as it may, in assessing the totality of the circumstances, the Commission is not
3 compelled to consider only the judge's most recent behavior, to the exclusion of the truly bizarre
4 and inappropriate manner in which she treated virtually all of her first set of staff members
5 during the first four months of her tenure. Whether the respondent has had an epiphany of a sort
6 since the institution of proceedings by the Commission, or whether she truly has "changed" the
7 way in which she manages her personal staff and deals with other persons inside the court, the
8 Commission simply cannot and will not ignore her egregious behavior. Such behavior cannot be
9 attributed to inexperience. It is most telling that immediately upon learning basic facts about the
10 situation in Department 23 from the staff members, the court administrators and three
11 experienced judges became concerned to the point that they virtually extricated Mr. Jordan from
12 his circumstances in order to protect him, not to mention protecting either the state or the county
13 from possible ongoing legal liability for acts of racial, religious and sexual insensitivity and
14 other possible tortious acts as well.

15 In sum, compelling proof adduced at the hearing on this ground alone is sufficient to
16 substantiate a conclusion that Judge Halverson presently constitutes a substantial threat of
17 serious harm to the public and to the administration of justice. The Commission concludes that
18 the Special Prosecutor adduced clear and convincing evidence to sustain a finding on this
19 ground. It cannot be said strongly enough that a demonstrated history of treating staff members
20 with disrespect if not outright contempt cannot and will not be tolerated.¹² In conjunction with
21 other grounds discussed before and after this one, consideration of this ground also warrants
22 interim suspension under the totality of the circumstances test.

23 **3. The issue of sleeping on the bench.**

24 There was more than adequate proof adduced by the Special Counsel to show that Judge
25 Halverson fell asleep on at least one occasion during the course of a criminal trial. Deputy
26

27 ¹² The limited evidence adduced raises the prospect of a violation of Canon 4C(1), which
28 requires a judge to discharge administrative duties without bias or prejudice and to maintain
professional competence in judicial administration.

1 District Attorney Lisa Luzaich-Rego confirmed the incident by recalling her desired intent to
2 throw something at Judge Halverson to wake her up. Both Johnny Jordan and Ms. Spoor
3 confirmed the incident, the former in the context of the judge being upset with him for the
4 manner in which he tried but failed to awaken her, i.e., by slamming a door and otherwise
5 making loud noise. Her former staff members related that this was not the only instance of the
6 judge having become obviously inattentive on the bench due to an apparent propensity to fall
7 asleep although there was no other concrete evidence to describe what occurred, unlike Ms.
8 Luzaich-Rego's distinct recollection of the incident in her case.

9 There is some suggestion in the record that in the one confirmed instance during the
10 criminal trial involving Ms. Luzaich-Rego that the judge recognized she had done so and she
11 attributed it to either the effect of medication or to some other medical malady. Indeed, there
12 may well be a physical reason for her having done so and possibly for having done so multiple
13 times. However, no proof was offered by Judge Halverson regarding the possible etiology of the
14 sleeping-in-court propensity and the Commission has yet to obtain any medical report of its own
15 that might shed light on the situation.

16 At this juncture of the proceedings, what can be said is that no one disagrees that sleeping
17 in court, whether there is a jury present or not, is not appropriate behavior for any judge although
18 it may be a symptom of a more serious problem such as a physical malady or psychological
19 shortcoming.¹³ While proof of one incident alone may not have been enough to convince the
20 Commission that interim suspension is warranted, in light of all the circumstances, this ground
21 also forms a partial basis for Judge Halverson to be suspended at this time.

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24 ¹³ Sleeping in court could result in discipline pursuant to the provisions of Canon 3B(3) and
25 (8), if proven by clear and convincing evidence. Such incidents clearly form the basis for litigants
26 in either criminal or civil matters to claim that they have been denied basic due process. *Paine v.*
27 *State*, 107 Nev. 998, 823 P.2d 281 (1991) (where one judge assigned to a three-judge panel in a
28 capital sentencing proceeding was accused by the defendant of having his eyes closed and being
inattentive, the reviewing court vacated the sentence and required a new sentencing hearing,
concluding that Canon 2A of the Nevada Code of Judicial Conduct required that result due to the
need for "confidence of the thinking public in the administration of justice)."

1 **4. The issue of failing to carry out the duties of her office and failing to cooperate**
2 **with other judges and court administrators.**

3 The relevant portion of the Code of Judicial Conduct under consideration is Canon 3C,
4 which outlines a judge's administrative responsibilities. Subsection (1) states that "[A] judge
5 shall diligently discharge the judge's administrative responsibilities without bias or prejudice and
6 maintain professional competence in judicial administration, and should cooperate with other
7 judges and court officials in the administration of court business." (Emphasis added). At the
8 hearing, Judge Halverson contended that because of the precatory language noted above
9 regarding a duty to cooperate, she cannot and should not be suspended.

10 The judge gives too narrow a reading to the entire subsection. The non-precatory or
11 "shall" portion of the canon certainly requires a judge to act without bias or prejudice and it also
12 speaks in the conjunctive to a requirement for her to be a competent administrator. Here, as
13 already discussed above, the evidence of various forms of bias (racial and sexual) shown toward
14 Mr. Jordan and toward Ms. Carroll, to whom Judge Halverson referred as a "faux Jew"
15 reasonably suggest that she is predisposed to improper treatment of those in positions
16 subordinate to her and the overall tenor of the manner in which she routinely spoke to and about
17 her staff—and about her husband in front of her staff—suggest that she is far from being a
18 competent administrator. In fact, her actions in so short a period of time speak to her lack of a
19 rudimentary understanding about how to treat at-will subordinates decently, particularly because
20 they are involved in a decidedly unbalanced relationship vis-a-vis an elected and independent
21 judge.

22 As for her failure to cooperate with other judges and administrators under the "should"
23 portion of the canon, the Commission concludes that the requirement is more than just
24 aspirational or precatory. The lack of mandatory language in that portion of Nevada's canon
25 does not lessen the need for basic collegiality nor does a judge's failure to cooperate make her
26 any less a threat to the administration of justice or to the public.

27 One incident bears out the point quite readily. The Special Prosecutor proved through
28 the testimony of a bailiff and an affidavit from the State's Private Investigator's Licensing Board

1 that Judge Halverson surreptitiously allowed her so-called private bodyguards to enter the
2 courthouse and chambers area without any knowledge on the part of the staff assigned to provide
3 overall security for the Regional Justice Center. The two private individuals, according to
4 Michele Ray of the PILB, did not have the proper credentials to serve as private bodyguards
5 even though Judge Halverson purported to have retained them to perform such services.¹⁴
6 Nevertheless, Judge Halverson did not notify court administrators or security personnel of their
7 presence and function nor did they go through any of the requisite background checks anyone
8 else who works in the chambers area would have to go through. Their presence only became
9 known when police responded to her chambers after Judge Halverson placed an emergency call
10 regarding certain activity in vicinity of her chambers by former staff members. Then and only
11 then were the security staff and court administrators placed on notice that Judge Halverson had
12 decided that she did not and could not trust the normal hiring process to the court administrators
13 who worked for the chief judge who, in Judge Halverson's view, was out to get her.

14 This one incident, quite apart from her treatment of her own staff, speaks volumes about
15 her unwillingness or her inability to engage in a modicum of professional courtesy and
16 collegiality except on her very own terms. This incident, when seen in the larger and well-
17 known context of her treatment of bailiff Jordan, leads the Commission to conclude that it is not
18 the least bit surprising that court administrators have had to order certain relief or interim bailiffs
19 to perform temporary bailiff services under threat of possible disciplinary action because of their
20 stated desire not to want to deal with Judge Halverson.

21 Finally, Judge Halverson's refusal beyond an initial meeting with the three-judge panel
22 also proves that she was intent on being as uncooperative as circumstances would permit her to
23 be. There is no proof to show that the three judges had anything but the best of intentions when
24 they set out to inquire about the complaints by the staff members. There is no indication in this
25 record that they were "out to get" Judge Halverson even though Judge Halverson apparently
26

27 ¹⁴ At this time, the record is silent as to what monetary terms, if any, governed the provision
28 of services by the two men to Judge Halverson.

1 believed that Chief Judge Hardcastle was out to get her and that the other three were part of her
2 design to effectuate the chief judge's goal. Such behavior hardly demonstrates a willingness to
3 act in the best interests of the court, the administration of justice, or in the public interest.

4 Therefore, the Commission concludes that when examined in light of all the incidents
5 described above, sufficient proof exists under the totality of circumstances test to show that
6 interim suspension is warranted on this ground.

7 **E. Conclusions of Law.**

8 The burden of proof by a preponderance of the evidence in the instant proceeding was
9 properly allocated to the Special Counsel by the Commission. At the July 16, 2007 hearing, the
10 Special Counsel adduced sufficient proof as discussed more fully above, to meet that burden.
11 The respondent was given notice of the purpose of the hearing and an opportunity to be heard.
12 She presented proof of her own as to certain factual issues and she made legal argument as to
13 certain legal issues. Under the totality of the circumstances test, it is in the best interests of the
14 Nevada judiciary and in the public's best interest to suspend her with pay, at least on a temporary
15 basis.

16 The Commission is satisfied that in order to protect the public, Judge Halverson must be
17 suspended on an interim basis for two reasons set forth in the statutory test. First, she poses a
18 substantial threat of serious harm to the public. Second, she poses a substantial threat to the
19 administration of justice. NRS 1.4675(3).

20 THEREFORE, IT IS HEREBY ORDERED that the respondent is hereby suspended on
21 an interim basis, with pay. The clerk of the Commission is hereby directed to forthwith serve a
22 copy of this order by certified mail on the respective counsel in this case. The Executive
23 Director is authorized to transmit a copy of this order via facsimile to the respective counsel.
24 This order will become effective on the date of entry and the respondent shall cease performing
25 any judicial duties at 5:00 p.m. on said date. It shall be the duty of counsel for the respondent to
26 immediately notify the respondent of the existence of this order once any one of her counsel are
27 provided a facsimile copy thereof. The clerk of the Commission is further ordered to forthwith
28 file a sealed copy of this order with the clerk of the Nevada Supreme Court. It will be left to the

1 Nevada Supreme Court to decide whether and when to publicly disclose the order, and whether
2 and when to notify the chief judge of the Eighth Judicial District Court of this development so
3 that appropriate administrative steps can be taken to ensure a smooth transition of the respondent
4 out of her chambers and the possible assignment of a substitute judge in Judge Halverson's
5 department on an interim basis.

6 The full Commission authorizes the Vice-Chairman, Ms. Nave, to sign this disposition
7 order on behalf of the full Commission.

8 DATED this 24th day of July, 2007.

9 NEVADA COMMISSION ON
10 JUDICIAL DISCIPLINE
11 P.O. Box 48
12 Carson City, NV 89702

13 By: 
14 Daveen Nave, Vice-Chairman
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