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IN THE SUPREME COURT OF THE
STATE OF NEVADA

FILED

MAY 30 2024

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY *[Signature]*
CHIEF DEPUTY CLERK

In the Matter of)
)
THE HONORABLE MICHELE MERCER,)
District Court Judge, Eighth Judicial District)
Court, Clark County, State of Nevada,)
)
Respondent.)

CASE NO. 88752

**CERTIFIED COPY OF STIPULATION AND ORDER OF
CONSENT TO PUBLIC REPRIMAND**

Pursuant to Commission Procedural Rule 29, I hereby certify that the document attached hereto is a true and correct copy of the STIPULATION AND ORDER OF CONSENT TO PUBLIC REPRIMAND filed with the Nevada Commission on Judicial Discipline on May 30, 2024.

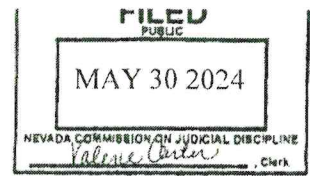
DATED this 30th day of May, 2024.

NEVADA COMMISSION
ON JUDICIAL DISCIPLINE
P.O. Box 18123
Reno, NV 89511
(775) 687-4017

By: *[Signature]*
PAUL C. DEYHLE
General Counsel and Executive Director
Nevada Bar No. 6954

RECEIVED
MAY 30 2024
ELIZABETH A. BROWN
CLERK OF SUPREME COURT
CHIEF DEPUTY CLERK

24-18956



BEFORE THE NEVADA COMMISSION ON JUDICIAL DISCIPLINE

IN THE MATTER OF THE HONORABLE
MICHELE MERCER, District Court Judge,
Eighth Judicial District Court, Clark County,
State of Nevada,
Respondent.

Case Nos.: 2023-002-P and 2023-127-P

STIPULATION AND ORDER OF CONSENT TO PUBLIC REPRIMAND

In order to resolve the judicial conduct complaints pending before the Nevada Commission on Judicial Discipline (the "Commission"), the Respondent, Honorable Michele Mercer, District Court Judge, Eighth Judicial District Court ("EJDC"), Clark County, State of Nevada ("Respondent" or "Judge Mercer"), and the Commission stipulate to the following pursuant to Commission Procedural Rule ("CPR") 29:

1. Respondent violated the Revised Nevada Code of Judicial Conduct ("Code"), Canon 1, Rule 1.1, requiring Respondent to comply with the law, including the Code, Rule 1.2, requiring Respondent to act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary and to avoid impropriety and the appearance of impropriety, and Rule 1.3, requiring Respondent not to abuse the prestige of judicial office to advance the personal or economic interests of the judge or others, or allow others to do so; Canon 2, Rule 2.4, prohibiting Respondent from permitting family, social, political, financial, or other interests or relationships to influence Respondent's judicial conduct or judgment, and Rule 2.5(A), requiring Respondent to perform judicial and administrative duties competently and diligently, and EJDC Rule 1.90(a)(5), unless the case is extraordinarily complex, a judge or other judicial officer shall order the prevailing party to prepare a written judgment and findings of fact and conclusions of law and submit the same not later than 21 days (28 days in extraordinarily complex cases) following trial, in her capacity as a District Court Judge in and for the EJDC, in Clark County, State of Nevada, by knowingly or unknowingly engaging in an act, a combination of acts, or all of the following acts, which occurred during the circumstances stated below:

///

1 **Case No. 2023-002-P**

2 A. On or about December 21-22, 2022, Respondent attempted to involve
3 herself in a matter being handled by EJDC Judge Robert Teuton, *In re Kevin and Mandi DiFalco*,
4 EJDC Case No. J-22-355861, and *In re Jill DiFalco*, EJDC Case No. J-22-355880 (juvenile
5 abuse/neglect cases), for a former client / personal friend, litigant Kevin DiFalco (“K. DiFalco”).

6 B. On December 21, 2022, Respondent asked Judge Teuton’s marshal for
7 permission to sit in the courtroom gallery and observe K. DiFalco’s hearing to support her friend.
8 The marshal said no. After the hearing in Judge Teuton's courtroom, Respondent invited K.
9 DiFalco to chat with her in her courtroom. Respondent sat behind her bench and K. DiFalco sat
10 next to her, approximately six (6) feet away. Judge Teuton’s marshal and another judge observed
11 Respondent and K. DiFalco while they were talking. That same day, Respondent advocated on
12 behalf of K. DiFalco to Judge Teuton’s marshal.

13 C. On December 22, 2022, Respondent approached Judge Teuton's Court
14 Clerk, as the Court Clerk was preparing for a hearing in Judge Teuton's courtroom. Respondent
15 informed the Court Clerk that she believed that an error had occurred in scheduling a motion
16 hearing in their department. Specifically, during the hearing that occurred Wednesday afternoon,
17 December 21, 2022, i.e. the previous day, counsel for K. DiFalco verbally requested visitation for
18 her client during Christmas weekend. In response, Judge Teuton instructed counsel to file a
19 motion, which Judge Teuton said would be heard in 48 hours, i.e. before Christmas. K. DiFalco’s
20 attorney filed such a motion that same day, December 21, 2022, at 4:52 p.m. The following
21 morning, December 22, 2022, when Respondent learned that the motion hearing regarding K.
22 DiFalco’s request for Christmas visitation had been scheduled for Tuesday after Christmas,
23 Respondent approached Judge Teuton’s Court Clerk and asked her if the hearing could be
24 corrected and put on Judge Teuton’s calendar to be heard on December 23, 2022, before
25 Christmas weekend. During that conversation, Respondent further advocated on behalf of K.
26 DiFalco.

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- 1 i. Respondent notes the following mitigating factors:
- 2 a. Judge Teuton appeared at the hearing virtually, i.e., via
- 3 video-conference; and thus, was not physically present in the courtroom.
- 4 b. Court was not in session in Respondent’s courtroom during
- 5 the times that these events occurred.
- 6 c. Respondent did not perform work in her chambers at the
- 7 time; she performed her work exclusively in her courtroom, including using it as her office, when
- 8 K. DiFalco was speaking with her in the courtroom.
- 9 d. Respondent believed that she was attempting to correct a
- 10 procedural error, and not effecting a substantive matter, when she spoke to Judge Teuton’s Court
- 11 Clerk.

12 **Case No. 2023-127-P**

13 D. On or about February 11, 2021 - March 12, 2021, Respondent conducted

14 an evidentiary hearing in *Rachelle Fournier v. Dieter Decuba*, EJDC Case No. D-18-575369-C,

15 regarding Plaintiff’s motion to set aside a stipulated settlement agreement, motion to modify child

16 support and motion for an award of attorney’s fees (“Motion”). Respondent found that

17 Defendant’s income increased, set the remainder of Plaintiff’s Motion for an in-chambers

18 decision on April 30, 2021, but did not issue an order on that date. Further, on August 27, 2021,

19 Respondent entered her findings of fact, conclusions of law and order from the evidentiary

20 hearing on February 11, 2021 – March 12, 2021, granted Plaintiff’s Motion, but did not address

21 child support. On June 12, 2022, Respondent entered a lengthy order and stated that her order

22 dated August 27, 2021, did not calculate Defendant’s child support, but Respondent’s order of

23 June 12, 2022 “resolved” that issue. However, Respondent’s order of June 12, 2022 only

24 calculated Defendant’s child support arrears, not his prospective child support obligation.

25 E. On June 27, 2022, Plaintiff filed a motion for reconsideration of

26 Respondent’s order dated June 12, 2022, alleging that the order did not set Defendant’s child

27 support obligation. On August 30, 2022, Respondent held a hearing on Plaintiff’s motion for

28 reconsideration. Finally, on November 15, 2022, over twenty (20) months after the original

1 evidentiary hearing, Respondent issued an order setting Defendant's child support obligation
2 effective February 1, 2020.

3 i. Respondent notes the following mitigating factors:

4 a. The hearing on March 12, 2021 was extraordinarily
5 confusing, complex and chaotic.

6 b. The parties stayed the pending litigation for two months
7 from December 21, 2021 to February 22, 2022.

8 c. Respondent has never before been professionally
9 disciplined in her 23 years as a licensed attorney nor in her 3 years as a District Court Judge.

10 d. Respondent has cooperated with the Commission with
11 respect to the handling of this matter and demonstrated accountability for her actions.

12 2. Respondent stipulates to the truth and accuracy of all the allegations and mitigating
13 factors in paragraphs (1)(A) through (E) as set forth above.

14 3. Respondent agrees to waive her right to present her case and contest the allegations
15 in the information set forth above in a formal hearing pursuant to CPR 18. Respondent also agrees
16 that this Stipulation and Order of Consent to Public Reprimand ("Order") takes effect
17 immediately, pursuant to CPR 29. The Commission accepts Respondent's waiver of said right and
18 acknowledges and agrees to the immediate effect of this Order. Respondent further agrees to
19 appear before the Commission in a public proceeding, if required by the Commission, to discuss
20 this Order in more detail and to answer any questions from the Commissioners related to this
21 case.

22 4. Respondent agrees and acknowledges that this Order will be published on the
23 Commission's website and filed with the Clerk of the Nevada Supreme Court.

24 5. Respondent and the Commission hereby stipulate to Respondent's consent to a
25 public reprimand pursuant to CPR 29. Notwithstanding the mitigating factors (as noted above),
26 Respondent nevertheless stipulates to the following substantive provisions:

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A. She agrees the evidence available to the Commission would establish by clear and convincing proof that she violated the Code, including Canon 1, Rules 1.1, 1.2 and 1.3, Canon 2, Rules 2.4 and 2.5(A); and EJDCR 1.90(a)(5).

B. She further agrees that her actions as described above justify the imposition of discipline in this matter, and merit the specific discipline stipulated to herein pursuant to NRS 1.467(4).

C. She agrees the discipline of a public reprimand is justified and authorized by Article 6, Section 21(1) of the Nevada Constitution; NRS 1.428; NRS 1.4653; NRS 1.4677(1)(a); NRS 1.4694; CPR 29.

D. She stipulates to a public reprimand for violations of the Judicial Canons and Rules as set forth above in paragraph (1).

6. Respondent understands and agrees that, by accepting the terms of this Order, she waives her right to appeal to the Nevada Supreme Court, pursuant to Rule 3D of the Nevada Rules of Appellate Procedure. Respondent also waives all other forms of extraordinary relief for purposes of challenging this Order.


ORDER

IT IS HEREBY ORDERED that Respondent is hereby publicly reprimanded for violating the Code, Canon 1, Rules 1.1, 1.2 and 1.3, Canon 2, Rules 2.4 and 2.5(A), and EJDCR 1.90(a)(5).

IT IS FURTHER ORDERED that the Executive Director of the Commission take the necessary steps to file this document in the appropriate records and on the website of the Commission and with the Clerk of the Nevada Supreme Court.

DATED: May 24, 2024

DATED: May 24, 2024



MICHELE MERCER, District Court Judge
Respondent

THOMAS J. DONALDSON, Esq.
Special Counsel for the Nevada
Commission on Judicial Discipline

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NEVADA COMMISSION ON JUDICIAL DISCIPLINE

The Commissioners listed below accept the terms of this Stipulation and Order of Consent to Public Reprimand. They further authorize the Chairman, if requested, to sign on behalf of the Commission, as a whole, this document containing the Stipulation and Order of Consent to Public Reprimand.

Signed by: 

GARY VAUSE, CHAIRMAN

Dated:
May 30, 2024

- STEFANIE HUMPHREY, VICE-CHAIR
- KARL ARMSTRONG
- PATRICIA HALSTEAD
- HON. DAVID HARDY
- JOHN KRMPOTIC
- HON. THOMAS STOCKARD

