

IN THE SUPREME COURT OF THE STATE OF NEVADA

THE COMMISSION ON ETHICS OF
THE STATE OF NEVADA,

Appellant,

vs.

IRA HANSEN, IN HIS OFFICIAL
CAPACITY AS NEVADA STATE
ASSEMBLYMAN FOR ASSEMBLY
DISTRICT NO. 32; AND JIM
WHEELER, IN HIS OFFICIAL
CAPACITY AS NEVADA STATE
ASSEMBLYMAN FOR ASSEMBLY
DISTRICT NO. 39,

Respondents.

Electronically Filed
Nov 28 2016 11:23 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

Supreme Court Case No. 69100

Appeal from First Judicial District
Court, Carson City, Nevada,
Case No. 15 OC 00076 1B

**RESPONDENTS' SUPPLEMENTAL EXHIBITS
TO THEIR MOTION TO DISMISS APPEAL
FOR LACK OF APPELLATE JURISDICTION, ETC.**

BRENDA J. ERDOES, Legislative Counsel (Nevada Bar No. 3644)
KEVIN C. POWERS, Chief Litigation Counsel (Nevada Bar No. 6781)
EILEEN G. O'GRADY, Chief Deputy Legislative Counsel (Nevada Bar No. 5443)
LEGISLATIVE COUNSEL BUREAU, LEGAL DIVISION
401 S. Carson Street
Carson City, Nevada 89701
Tel: (775) 684-6830; Fax: (775) 684-6761
E-mail: erdoes@lcb.state.nv.us; kpowers@lcb.state.nv.us; ogrady@lcb.state.nv.us
Attorneys for Respondents

REASONS FOR SUPPLEMENTAL EXHIBITS

Respondents Assemblymen Ira Hansen and Jim Wheeler (the Assemblymen), by and through their counsel the Legal Division of the Legislative Counsel Bureau (LCB), hereby file the attached supplemental exhibits to their motion to dismiss the appeal for lack of appellate jurisdiction, etc., which was submitted by the Assemblymen on December 7, 2015, and filed by the Clerk on December 21, 2015, pursuant to an order of the Court issued on that same date (Doc. 15-38941). The Assemblymen are filing the supplemental exhibits for the following reasons.

On December 16, 2015, Appellant Commission on Ethics (Commission) held a meeting in Las Vegas, Nevada, and under Agenda Item No. 4 for the meeting, the Commission attempted to take retrospective corrective action to ratify the notice of appeal in this case to make it effective retrospectively during the jurisdictional appeal period. (*Opp'n to Mot. to Dismiss Appeal, Ex. E at 1 & Ex. F at 8-11.*) In the Assemblymen's reply in support of their motion to dismiss the appeal filed on February 9, 2016, the Assemblymen contend that the Commission cannot take any retrospective corrective action under NRS 241.0365(5) to ratify the void notice of appeal to make it effective retrospectively during the jurisdictional appeal period. The Assemblymen also contend that because the Commission's attempted ratification of the appeal necessarily involved consideration of the Assemblymen's character, alleged misconduct or professional competence as assailed in the ethics

complaints that are subject of the appeal, the Commission failed to satisfy NRS 241.033's personal notice and proof-of-service requirements for the December 16 meeting, and its attempted ratification is void under NRS 241.036.

To preserve the Assemblymen's rights under the OML in the event the Court stays this appeal and remands to the district court for resolution of the Assemblymen's pending OML complaint to void the notice of appeal, the Assemblymen on February 16, 2016, filed another OML complaint in the district court alleging that the Commission violated the OML at its December 16 meeting for the reasons stated above and asking the district court to void the Commission's actions taken in violation of the OML. Hansen v. Commission on Ethics, First Judicial District Court, Carson City, Nevada, Case No. 16-OC-00029-1B, Dept. No. II (filed Feb. 16, 2016). To keep the Court fully informed of the district court case, the Assemblymen are submitting the following supplemental exhibits filed in the case on February 16, 2016: (1) Complaint to Have Declared Void Action Taken By Commission on Ethics in Violation of Open Meeting Law; and (2) Plaintiffs' Proof of Service of Summons and Complaint.

//

//

//

//

DATED: This 16th day of February, 2016.

Respectfully submitted,

BRENDA J. ERDOES

Legislative Counsel

By: /s/ Kevin C. Powers

KEVIN C. POWERS

Chief Litigation Counsel

Nevada Bar No. 6781

EILEEN G. O'GRADY

Chief Deputy Legislative Counsel

Nevada Bar No. 5443

LEGISLATIVE COUNSEL BUREAU, LEGAL DIVISION

401 S. Carson Street

Carson City, NV 89701

Tel: (775) 684-6830; Fax: (775) 684-6761

E-mail: **kpowers@lcb.state.nv.us**; **ogrady@lcb.state.nv.us**

Attorneys for Respondents

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of the Nevada Legislative Counsel Bureau, Legal Division, and that on the 16th day of February, 2016, pursuant to NRAP 25, NEFCR 8 and 9 and the parties' stipulation and consent to service by electronic means, I filed and served a true and correct copy of Respondents' Supplemental Exhibits to Their Motion to Dismiss Appeal for Lack of Appellate Jurisdiction, Etc., by electronic means to registered users of the Nevada Supreme Court's electronic filing system and by electronic mail, directed to the following:

Tracy L. Chase, Esq.
Commission Counsel
NEVADA COMMISSION ON ETHICS
704 W. Nye Lane, Suite 204
Carson City, NV 89703
E-mail: **tchase@ethics.nv.gov**
Attorney for Appellant

/s/ Kevin C. Powers
An Employee of the Legislative Counsel Bureau

INDEX OF SUPPLEMENTAL EXHIBITS

Exhibit	Description
G	<u>Hansen v. Commission on Ethics</u> , First Judicial District Court, Carson City, Nevada, Case No. 16-OC-00029-1B, Dept. No. II: Complaint to Have Declared Void Action Taken By Commission on Ethics in Violation of Open Meeting Law (Feb. 16, 2016).
H	<u>Hansen v. Commission on Ethics</u> , First Judicial District Court, Carson City, Nevada, Case No. 16-OC-00029-1B, Dept. No. II: Plaintiffs' Proof of Service of Summons and Complaint (Feb. 16, 2016).

Respondents' Motion to Dismiss Appeal, Etc.

Supplemental Exhibit G

BRENDA J. ERDOES, Legislative Counsel
Nevada Bar No. 3644
KEVIN C. POWERS, Chief Litigation Counsel
Nevada Bar No. 6781
EILEEN G. O'GRADY, Chief Deputy Legislative Counsel
Nevada Bar No. 5443
LEGISLATIVE COUNSEL BUREAU, LEGAL DIVISION
401 S. Carson Street
Carson City, Nevada 89701
Tel: (775) 684-6830; Fax: (775) 684-6761
E-mail: kpowers@lcb.state.nv.us; ogrady@lcb.state.nv.us
Attorneys for Plaintiffs

**IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR CARSON CITY**

IRA HANSEN, in his official capacity as Nevada
State Assemblyman for Assembly
District No. 32; and JIM WHEELER, in his
official capacity as Nevada State Assemblyman
for Assembly District No. 39,

Plaintiffs,

vs.

THE COMMISSION ON ETHICS OF THE
STATE OF NEVADA,

Defendant.

Case No. 1609 0002913
Dept. No. 77

**COMPLAINT TO HAVE DECLARED VOID ACTION TAKEN BY
COMMISSION ON ETHICS IN VIOLATION OF OPEN MEETING LAW**

1 **I. General allegations.**

2 1. The Plaintiffs, Ira Hansen, in his official capacity as Nevada State Assemblyman for
3 Assembly District No. 32, and Jim Wheeler, in his official capacity as Nevada State Assemblyman for
4 Assembly District No. 39 (the Assemblymen), by and through their counsel the Legal Division of the
5 Legislative Counsel Bureau (LCB), hereby file this complaint pursuant to NRS 241.037(2) to have
6 declared void action taken by the Commission on Ethics (Commission) in violation of the Open Meeting
7 Law (OML) codified in NRS Chapter 241.¹

8 2. This OML case arises as the result of two other cases between the same parties filed in the
9 First Judicial District Court, Carson City, Nevada:

10 (a) **Hansen I (ethics case):** Hansen v. Commission on Ethics, Case No. 15 OC 00076 1B,
11 Dept. No. II, which is on appeal and docketed as Commission on Ethics v. Hansen, Nevada
Supreme Court Case No. 69100.

12 (b) **Hansen II (first OML case):** Hansen v. Commission on Ethics, Case No. 15 OC 00261 1B,
13 Dept. No. I, which pursuant to a stipulation and order approved by the district court on January 11,
2016, has been stayed pending decision by the Nevada Supreme Court in Case No. 69100.

14 3. On October 1, 2015, in Hansen I (ethics case), the First Judicial District Court entered an
15 order denying the Commission's motion to dismiss, granting the Assemblymen's petition for judicial
16 review and ordering the Commission to terminate its ethics proceedings against the Assemblymen.

17 4. On October 26, 2015, in Hansen I (ethics case), the Assemblymen served the Commission
18 with written notice of entry of the district court's order. The written notice was served on the
19 Commission by electronic mail pursuant to the parties' written stipulation and consent to service by
20 electronic mail filed in that case on April 30, 2015.

21 5. On October 29, 2015, in Hansen I (ethics case), the Commission filed a notice of appeal,
22 which was docketed as Commission on Ethics v. Hansen, Nevada Supreme Court Case No. 69100.
23

24

¹ All OML citations are to the law as amended in 2015 by SB70, 2015 Nev.Stat., ch.226, §§2-7, at 1054-62, and SB158, 2015 Nev.Stat., ch.84, §2, at 329-32.

1 6. On December 1, 2015, the Assemblymen commenced Hansen II (first OML case) against the
2 Commission by filing a complaint pursuant to NRS 241.037(2) alleging that the Commission violated
3 the OML when the Commission filed a notice of appeal in Hansen I (ethics case) without first making its
4 decision or taking action to appeal the district court's order in an open and public meeting that complied
5 with the OML.

6 7. In Hansen II (first OML case), the Assemblymen are asking the district court to declare that
7 the Commission violated the OML and denied each Assemblyman and the legal representatives of each
8 Assemblyman rights conferred by the OML when the Commission filed a notice of appeal in Hansen I
9 (ethics case) without first making its decision or taking action to appeal the district court's order in an
10 open and public meeting that complied with the OML.

11 8. In Hansen II (first OML case), the Assemblymen are asking the district court to declare that
12 the notice of appeal filed in Hansen I (ethics case) is void as a matter of law under the absolute voiding
13 rule in NRS 241.036 and has no legal force or effect because the Commission violated the OML and
14 denied each Assemblyman and the legal representatives of each Assemblyman rights conferred by the
15 OML when the Commission filed the notice of appeal in Hansen I (ethics case) without first making its
16 decision or taking action to appeal the district court's order in an open and public meeting that complied
17 with the OML.

18 9. In Hansen II (first OML case), the Assemblymen are asking the district court to enjoin the
19 Commission from taking any further action in Hansen I (ethics case) that is based in whole or in part on
20 the notice of appeal because the notice of appeal is void as a matter of law under NRS 241.036 and has
21 no legal force or effect given that the Commission violated the OML and denied each Assemblyman and
22 the legal representatives of each Assemblyman rights conferred by the OML when the Commission filed
23 the notice of appeal in Hansen I (ethics case) without first making its decision or taking action to appeal
24 the district court's order in an open and public meeting that complied with the OML.

1 10. On December 2, 2015, in Hansen II (first OML case), the Assemblymen filed proof of
2 service of the summons and complaint on the Commission and the Attorney General on that same date.

3 11. On December 7, 2015, in the appeal in Hansen I (ethics case), the Assemblymen submitted
4 to the Nevada Supreme Court a motion to: (1) dismiss the appeal for lack of appellate jurisdiction; or
5 (2) in the alternative, stay the appeal and remand to the district court for resolution of the
6 Assemblymen's pending OML complaint in Hansen II (first OML case) filed in the district court under
7 NRS 241.037(2) to void the Commission's notice of appeal as action taken by the Commission in
8 violation of the OML. The Assemblymen also filed a motion to exceed the page limit for their motion to
9 dismiss the appeal.

10 12. On December 21, 2015, in the appeal in Hansen I (ethics case), the Nevada Supreme Court
11 entered an order: (1) granting the Assemblymen's motion to exceed the page limit for their motion to
12 dismiss the appeal; (2) directing the Clerk of the Supreme Court to file the Assemblymen's motion to
13 dismiss the appeal submitted on December 7, 2015; (3) directing the Commission to file and serve a
14 response to the motion to dismiss the appeal; and (4) permitting the Assemblymen to file a reply.

15 13. On January 11, 2016, in Hansen II (first OML case), the district court approved a stipulation
16 and order staying that case pending the Nevada Supreme Court's decision regarding the Assemblymen's
17 motion to dismiss the appeal in Hansen I (ethics case).

18 14. On January 14, 2016, in the appeal in Hansen I (ethics case), the Commission filed its
19 response in opposition to the Assemblymen's motion to dismiss the appeal.

20 15. On February 9, 2016, in the appeal in Hansen I (ethics case), the Assemblymen submitted
21 their reply in support of their motion to dismiss the appeal and a motion to exceed the page limit for
22 their reply.

23 16. On the date on which this complaint was filed, the Assemblymen's motion to dismiss the
24 appeal in Hansen I (ethics case) was pending before the Nevada Supreme Court.

1 **II. Allegations relating to the December 16, 2015 meeting of the Commission.**

2 17. Pursuant to NRCP 10(c), the Assemblymen adopt by reference and incorporate herein all of
3 the allegations and statements set forth in all of the preceding paragraphs as though they were fully set
4 forth and realleged or restated herein.

5 18. The Commission is a public body subject to the OML. NRS 241.015(4); OMLO 2002-17
6 (Apr. 18, 2002).²

7 19. On December 16, 2015, the Commission held a meeting in Las Vegas, Nevada, at Workforce
8 Connections, 6330 West Charleston Blvd., Suite 150, Las Vegas, Nevada 89146. (*Ex. 1.*)

9 20. The December 16, 2015 meeting of the Commission was not teleconferenced or
10 videoconference to any other location. (*Ex. 1.*)

11 21. On the agenda for the December 16, 2015, meeting, the Commission included Agenda Item
12 No. 4, which was denoted "For Possible Corrective Action." (*Ex. 1 at 1.*)

13 22. Agenda Item No. 4 listed the Assemblymen's names. (*Ex. 1 at 1.*)

14 23. Agenda Item No. 4 listed the district court case in Hansen I (ethics case) and the appeal in
15 Case No. 69100 and indicated that the Commission would consider "ratification and approval of the
16 actions taken by Commission Counsel to file or institute the Appeal." (*Ex. 1 at 1.*)

17 24. Agenda Item No. 4 stated in full:

18 4. Authorization for Commission Counsel to continue to defend and represent the interests of
19 the Ethics Commission of the State of Nevada in pending legal proceedings entitled "Hansen
20 and Wheeler vs. The Commission on Ethics of the State of Nevada," Case No.
21 15OC000761B, filed in the First Judicial District Court of Nevada, and associated Appeal
22 filed in the Supreme Court of the State of Nevada, Case No. 69100, entitled "The
23 Commission on Ethics of the State of Nevada vs. Hansen and Wheeler," including direction
to Commission Counsel to continue to pursue the Appeal, and ratification and approval of
the actions taken by Commission Counsel to file or institute the Appeal, as the official legal
counsel of the Nevada Commission on Ethics. (This item is not an admission of wrongdoing
for the purposes of civil action, criminal prosecution or injunctive relief.) (*Ex. 1 at 1.*)

24 ² Because the Office of the Attorney General (OAG) has an enforcement role under the OML, it
provides OML guidance to public bodies in both its Open Meeting Law Manual (OMLM) and its
Open Meeting Law Opinions (OMLOs). Del Papa v. Bd. of Regents, 114 Nev. 388, 396 (1998).

1 25. The Commission had the December 16, 2015 meeting transcribed by a certified court
2 reporter. (Ex. 2.)

3 26. During the December 16, 2015 meeting, the Commission specifically identified the
4 Assemblymen's names when the Commission considered, discussed and took action under Agenda Item
5 No. 4 regarding the appeal in Hansen I (ethics case). (Ex. 2 at 8-11.)

6 27. During the December 16, 2015 meeting, the Commission considered, discussed and took the
7 following action on Agenda Item No. 4 regarding the attempted ratification of the void notice of appeal
8 in Hansen I (ethics case) to make it effective retrospectively during the jurisdictional appeal period:

9 CHAIRWOMAN LAU: Please turn to agenda item 4. We need an authorization for
10 Commission Counsel to continue to defend and represent the interests of the Ethics
11 Commission in pending legal proceedings regarding Hansen and Wheeler, or you may direct
Commission Counsel not to continue to defend and represent the interests of the Ethics
Commission. May I have a comment, a question.

12 COMMISSIONER WEAVER: Or a motion?

13 CHAIRWOMAN LAU: Or a motion.

14 COMMISSIONER WEAVER: Madam Chair, I move that Commission Counsel be
15 authorized to continue to defend and represent the interests of the Ethics Commission and the
16 State of Nevada in pending legal proceedings entitled Hansen and Wheeler versus the
Commission on Ethics of the State of Nevada.

17 CHAIRWOMAN LAU: Thank you, Vice Chair Weaver. Do I hear a second?

18 COMMISSIONER GROOVER: I second.

19 CHAIRWOMAN LAU: Thank you, Commissioner Groover.

20 COMMISSIONER WEAVER: Madam Chair, may I just add something I should have?
That also includes the appeal, please. Thank you.

21 MS. CHASE: Madam Chair, Tracy Chase, Commission Counsel. Commissioner Weaver,
22 would you clarify? Would that also include ratification of all actions taken by Commission
Counsel on behalf of the Executive Director and Commission Chair to file the appeal and
pursue that in that manner?

23 Because at the time the Commission did not meet in open session, they did not meet in
24 quorum, and there were no serial communications to provide that direction. So the direction
was taken from the Chair and the Executive Director by Commission Counsel to pursue that
appeal. So ratification of those actions would be appreciated.

1 COMMISSIONER WEAVER: Yes, it does, and I intended to include that and forgot. So
2 thank you.

3 CHAIRWOMAN LAU: Thank you. And the second?

4 COMMISSIONER GROOVER: I second.

5 COMMISSIONER CARPENTER: Madam Chairman, I have a conflict on this so I won't
6 be voting.

7 CHAIRWOMAN LAU: Thank you very much, Commissioner Carpenter.

8 MS. CHASE: Commissioner Carpenter, this is Tracy Chase, Commission Counsel. Could
9 you put on the record what your disclosure is and what your conflict is, please.

10 COMMISSIONER CARPENTER: Thank you. I was in the State Legislature for 24 years,
11 and the Legislative Counsel Bureau was, I guess you would say, my attorney in all legislative
12 matters. I feel I have a conflict and I will not be voting on it.

13 CHAIRWOMAN LAU: Thank you, Commissioner Carpenter. Any other questions,
14 comments prior to the vote?

15 All right. I call for the question. Those in favor of the motion say aye. Those opposed?
16 Unanimously passed.

17 (Ex. 2 at 8-11.)

18 28. The OML does not allow a public body to take retrospective corrective action to cure a
19 violation or reverse the effects of the absolute voiding rule in NRS 241.036 because the OML expressly
20 provides that "[a]ny action taken by a public body to correct an alleged violation of this chapter by the
21 public body *is effective prospectively*." NRS 241.0365(5) (emphasis added).

22 29. Because the OML does not allow a public body to take retrospective corrective action to cure
23 a violation or reverse the effects of the absolute voiding rule in NRS 241.036, the Commission violated
24 the OML when it attempted to take retrospective corrective action at the December 16, 2015 meeting on
Agenda Item No. 4 regarding the attempted ratification of the void notice of appeal in Hansen I (ethics
case) to make it effective retrospectively during the jurisdictional appeal period.

1 30. The OML provides that “[t]he action of any public body taken in violation of any provision
2 of this chapter is void.” NRS 241.036; McKay v. Bd. of Sup’rs (McKay I), 102 Nev. 644, 651 (1986)
3 (holding that a public body’s action in violation of the OML is void).

4 31. The OML does not contain any exceptions to the absolute voiding rule in NRS 241.036, and
5 based on the plain language of the rule and the Nevada Supreme Court’s decisions applying the rule, it is
6 well established that, in all cases and without exception, any action taken by a public body in violation
7 of the OML is void as a matter of law. Chanos v. Nev. Tax Comm’n, 124 Nev. 232, 244 (2008);
8 McKay I, 102 Nev. at 651.

9 32. When an action is void as a matter of law, the action “is void ab initio, meaning it is of no
10 force and effect” and “it does not legally exist.” Washoe Med. Ctr. v. Dist. Ct., 122 Nev. 1298, 1304
11 (2006) (citing Black’s Law Dictionary 5 (8th ed. 2004) (defining “ab initio” as “from the beginning”)).

12 33. Void actions “cannot be cured by amendment” because “they are void and do not legally
13 exist.” Otak Nev., LLC v. Dist. Ct., 127 Nev.Adv.Op. 53, 260 P.3d 408, 412 (2011) (quoting Fierle v.
14 Perez, 125 Nev. 728, 740 (2009), *overruled in part on other grounds by Egan v. Chambers*, 129
15 Nev.Adv.Op. 25, 299 P.3d 364 (2013)).

16 34. When the actions of a public body violate the OML, the public body cannot take any
17 retrospective corrective action that would cure the violation or reverse the effects of the absolute voiding
18 rule in NRS 241.036. NRS 241.0365(5); Mayes v. City of De Leon, 922 S.W.2d 200, 204
19 (Tex.App.1996) (“A prior action taken in violation of the Open Meetings Act may not be retroactively
20 ratified.”); Webster Cnty. Bd. of Educ. v. Franklin, 392 S.W.3d 431, 435 (Ky.App.2013) (“[A]ny ability
21 to ratify actions done improperly renders the Open Meetings Act meaningless. Ratification cannot be
22 allowed to legitimize unauthorized conduct.”).

23 35. The OML contains only one limited procedure which allows a public body to take corrective
24 action “within 30 days after the alleged violation.” NRS 241.0365(1). However, even if the public body

1 takes corrective action in a timely manner pursuant to that procedure, the corrective action does not cure
2 the violation or reverse the effects of the absolute voiding rule in NRS 241.036. Instead, the only legal
3 effect of the corrective action is that “the Attorney General may decide not to commence prosecution of
4 the alleged violation if the Attorney General determines foregoing prosecution would be in the best
5 interests of the public.” NRS 241.0365(1).

6 36. The same statute which allows a public body to take corrective action “within 30 days after
7 the alleged violation” also expressly provides that “[a]ny action taken by a public body to correct an
8 alleged violation of this chapter by the public body *is effective prospectively*.” NRS 241.0365(5)
9 (emphasis added). When an action is effective prospectively, it does not change “the legal consequences
10 of acts completed before its effective date.” Miller v. Burk, 124 Nev. 579, 592 n.44 (2008) (quoting
11 Miller v. Florida, 482 U.S. 423, 430 (1987)).

12 37. Under the plain language of the OML, any action taken by a public body to correct a
13 violation of the OML is effectively prospectively, and it does not change the legal consequences of the
14 violation or reverse the effects of the absolute voiding rule in NRS 241.036.

15 38. The legal consequence of the Commission’s prior OML violation is that the notice of appeal
16 is void as a matter of law under the absolute voiding rule in NRS 241.036, and the Commission cannot
17 take any retrospective corrective action under NRS 241.0365(5) to ratify the void notice of appeal and
18 make it effective retrospectively during the jurisdictional appeal period contrary to the OML.

19 39. Because the Commission attempted to take retrospective corrective action at the December
20 16, 2015 meeting on Agenda Item No. 4 regarding the attempted ratification of the void notice of appeal
21 in Hansen I (ethics case) to make it effective retrospectively during the jurisdictional appeal period, the
22 Commission took action in violation of the OML at the December 16, 2015 meeting, and the
23 Commission’s attempted ratification at the December 16, 2015 meeting is void as a matter of law under
24 the absolute voiding rule in NRS 241.036.

1 40. Additionally, the Commission's attempted ratification at the December 16, 2015 meeting is
2 void as a matter of law under the absolute voiding rule in NRS 241.036 because the Commission failed
3 to satisfy NRS 241.033's personal notice and proof-of-service requirements for the December 16, 2015
4 meeting at which the Commission's action on Agenda Item No. 4 regarding the attempted ratification of
5 the appeal in Hansen I (ethics case) necessarily involved consideration of the Assemblymen's character,
6 alleged misconduct or professional competence as assailed in Hansen I (ethics case).

7 41. NRS 241.033 provides that "a public body shall not hold a meeting to consider the character,
8 alleged misconduct, professional competence, or physical or mental health of any person," unless the
9 public body has: (1) "[g]iven written notice to that person of the time and place of the meeting"; and
10 (2) "[r]eceived proof of service of the notice." NRS 241.033(1).

11 42. NRS 241.033 further provides that the written notice required by that section must be:
12 (1) "[d]elivered personally to that person at least 5 working days before the meeting"; or (2) "[s]ent by
13 certified mail to the last known address of that person at least 21 working days before the meeting."
14 NRS 241.033(2).

15 43. A public body's failure to satisfy the personal notice and proof-of-service requirements
16 violates the OML. Stockmeier v. State Dep't of Corr. (Stockmeier I), 122 Nev. 385, 396-98 (2006),
17 *overruled in part on other grounds by* State Bd. of Parole Comm'rs v. Morrow, 127 Nev. Adv. Op. 21,
18 255 P.3d 224 (2011); OMLO 2010-01 (Feb. 25, 2010); OMLO 2004-01 (Jan. 13, 2004).

19 44. If a public body considers any person's character, alleged misconduct or professional
20 competence at a meeting, the public body must satisfy NRS 241.033's personal notice and proof-of-
21 service requirements "regardless of whether the public body meets in closed session or in open session."
22 OMLO 2010-01 (Feb. 25, 2010).

23 45. The term "consider" in NRS 241.033 means to "think about" or "take into account or bear in
24 mind." McKay I, 102 Nev. at 648; OMLO 1999-22 (Apr. 7, 1999).

1 46. The OAG advises that if a public body discusses pending lawsuits under a general agenda
2 topic, such as “Discussion and Consideration of Report of Tortious Filings according to NRS 41.0385,”
3 and the public body simply mentions the names of the parties to the lawsuits during the discussion, the
4 public body is not required to satisfy the personal notice and proof-of-service requirements with regard
5 to those parties. OMLM §5.09 (12th. ed. 2016); OMLO 2003-14 (Mar. 21, 2003). However, the OAG
6 also advises public bodies that “anyone whose name appears on an agenda item . . . should receive
7 notice that their character or competence might be discussed.” OMLO 2011-01 (Mar. 29, 2011).

8 47. On the agenda for the December 16, 2015 meeting of the Commission, the Assemblymen’s
9 names appeared on Agenda Item No. 4 regarding the appeal in Hansen I (ethics case). (*Ex. 1 at 1.*)

10 48. During the December 16, 2015 meeting, the Commission specifically identified the
11 Assemblymen’s names when the Commission considered, discussed and took action on Agenda Item
12 No. 4 regarding the attempted ratification of the void notice of appeal in Hansen I (ethics case) to make
13 it effective retrospectively during the jurisdictional appeal period. (*Ex. 2 at 8-11.*)

14 49. During the December 16, 2015 meeting, the Commission considered the Assemblymen’s
15 character, alleged misconduct or professional competence because in order to decide whether to take
16 action on Agenda Item No. 4 regarding the attempted ratification of the void notice of appeal in
17 Hansen I (ethics case), the Commission necessarily had to evaluate the potential merits of the appeal,
18 which meant that the Commission needed to “think about” or “take into account or bear in mind” the
19 allegations in Hansen I (ethics case) assailing the Assemblymen’s character, alleged misconduct or
20 professional competence.

21 50. The Commission violated the OML because it did not give the written notice required by
22 NRS 241.033 to the Assemblymen of the time and place of the December 16, 2015 meeting at which the
23 Commission took action on Agenda Item No. 4 regarding the attempted ratification of the appeal in
24

1 Hansen I (ethics case), which necessarily involved consideration of the Assemblymen's character,
2 alleged misconduct or professional competence as assailed in Hansen I (ethics case).

3 51. The Commission violated the OML because it did not receive proof of service of the written
4 notice required by NRS 241.033 to the Assemblymen of the time and place of the December 16, 2015
5 meeting at which the Commission took action on Agenda Item No. 4 regarding the attempted ratification
6 of the appeal in Hansen I (ethics case), which necessarily involved consideration of the Assemblymen's
7 character, alleged misconduct or professional competence as assailed in Hansen I (ethics case).

8 52. Because the Commission failed to satisfy NRS 241.033's personal notice and proof-of-
9 service requirements for the December 16, 2015 meeting at which the Commission took action on
10 Agenda Item No. 4 regarding the attempted ratification of the appeal in Hansen I (ethics case), which
11 necessarily involved consideration of the Assemblymen's character, alleged misconduct or professional
12 competence as assailed in Hansen I (ethics case), the Commission took action in violation of the OML at
13 the December 16, 2015 meeting, and the Commission's attempted ratification at the December 16, 2015
14 meeting is void as a matter of law under the absolute voiding rule in NRS 241.036.

15 **III. Jurisdiction, venue and standing.**

16 53. Pursuant to NRCP 10(c), the Assemblymen adopt by reference and incorporate herein all of
17 the allegations and statements set forth in all of the preceding paragraphs as though they were fully set
18 forth and realleged or restated herein.

19 54. The OML provides that "[a]ny person denied a right conferred by this chapter may sue in the
20 district court of the district in which the public body ordinarily holds its meetings or in which the
21 plaintiff resides. A suit may seek to have an action taken by the public body declared void, to require
22 compliance with or prevent violations of this chapter or to determine the applicability of this chapter to
23 discussions or decisions of the public body." NRS 241.037(2).

1 55. By giving “any person” denied a right under the OML a private cause of action to remedy a
2 violation of the OML’s provisions, the Legislature intended to “provide a broad right to sue.”
3 Stockmeier I, 122 Nev. at 394.

4 56. Under the OML’s private cause of action in NRS 241.037(2), a person may bring an action
5 against a public body for declaratory and injunctive relief to have declared void any action taken by the
6 public body in violation of the OML. Stockmeier v. State Dep’t of Corr. (Stockmeier III), 124 Nev. 313,
7 317-19 (2008).

8 57. The First Judicial District Court, Carson City, Nevada, has subject-matter jurisdiction over
9 this action under NRS 241.037(2) because the Commission violated the OML and denied each
10 Assemblyman and the legal representatives of each Assemblyman rights conferred by the OML.

11 58. The First Judicial District Court, Carson City, Nevada, is the proper venue for this action
12 under NRS 241.037(2) because the Commission is a public body that ordinarily holds its meetings in
13 Carson City, Nevada, which is part of the First Judicial District under NRS 3.010.

14 59. The Assemblymen have standing to bring this action under NRS 241.037(2) because the
15 Commission violated the OML and denied each Assemblyman and the legal representatives of each
16 Assemblyman rights conferred by the OML when the Commission attempted to take retrospective
17 corrective action at the December 16, 2015 meeting on Agenda Item No. 4 regarding the attempted
18 ratification of the void notice of appeal in Hansen I (ethics case) to make it effective retrospectively
19 during the jurisdictional appeal period.

20 60. The Assemblymen have standing to bring this action under NRS 241.037(2) because the
21 Commission violated the OML and denied each Assemblyman and the legal representatives of each
22 Assemblyman rights conferred by the OML when the Commission failed to satisfy the OML’s personal
23 notice and proof-of-service requirements for the December 16, 2015 meeting at which the Commission
24 took action on Agenda Item No. 4 regarding the attempted ratification of the appeal in Hansen I (ethics

case), which necessarily involved consideration of the Assemblymen's character, alleged misconduct or professional competence as assailed in Hansen I (ethics case).

IV. Time for bringing action.

61. Pursuant to NRCP 10(c), the Assemblymen adopt by reference and incorporate herein all of the allegations and statements set forth in all of the preceding paragraphs as though they were fully set forth and realleged or restated herein.

62. The OML provides that "[a]ny such suit brought to have an action declared void must be commenced within 60 days after the action objected to was taken." NRS 241.037(3).

63. The action objected to was taken by the Commission on December 16, 2015.

64. The Assemblymen commenced this action pursuant to NRCP 3 by filing a complaint under NRS 241.037(2) in the First Judicial District Court, Carson City, Nevada, within 60 days after the action objected to was taken by the Commission on December 16, 2015. See Romaine v. State Farm Mut. Auto. Ins., 87 Nev. 257, 258-60 (1971) (providing that the time computation rules in NRCP 6(a) apply to statutes of limitation); Rogers v. State, 85 Nev. 361, 364 (1969) (same).

V. Attorney's fees and court costs.

65. Pursuant to NRCP 10(c), the Assemblymen adopt by reference and incorporate herein all of the allegations and statements set forth in all of the preceding paragraphs as though they were fully set forth and realleged or restated herein.

66. The OML provides that "[t]he court may order payment of reasonable attorney's fees and court costs to a successful plaintiff in a suit brought under this subsection." NRS 241.037(2).

67. The Assemblymen are entitled to payment by the Commission of reasonable attorney's fees and court costs under NRS 241.037(2) because the Commission violated the OML and denied each Assemblyman and the legal representatives of each Assemblyman rights conferred by the OML when the Commission attempted to take retrospective corrective action at the December 16, 2015 meeting on

1 Agenda Item No. 4 regarding the attempted ratification of the void notice of appeal in Hansen I (ethics
2 case) to make it effective retrospectively during the jurisdictional appeal period.

3 68. The Assemblymen are entitled to payment by the Commission of reasonable attorney's fees
4 and court costs under NRS 241.037(2) because the Commission violated the OML and denied each
5 Assemblyman and the legal representatives of each Assemblyman rights conferred by the OML when
6 the Commission failed to satisfy the OML's personal notice and proof-of-service requirements for the
7 December 16, 2015 meeting at which the Commission took action on Agenda Item No. 4 regarding the
8 attempted ratification of the appeal in Hansen I (ethics case), which necessarily involved consideration
9 of the Assemblymen's character, alleged misconduct or professional competence as assailed in Hansen I
10 (ethics case).

11 **VI. Claims for relief.**

12 69. Pursuant to NRCP 10(c), the Assemblymen adopt by reference and incorporate herein all of
13 the allegations and statements set forth in all of the preceding paragraphs as though they were fully set
14 forth and realleged or restated herein.

15 70. The Assemblymen respectfully request that the Court enter an order under NRS 241.037(2)
16 declaring that the Commission violated the OML and denied each Assemblyman and the legal
17 representatives of each Assemblyman rights conferred by the OML when the Commission attempted to
18 take retrospective corrective action at the December 16, 2015 meeting on Agenda Item No. 4 regarding
19 the attempted ratification of the void notice of appeal in Hansen I (ethics case) to make it effective
20 retrospectively during the jurisdictional appeal period.

21 71. The Assemblymen respectfully request that the Court enter an order under NRS 241.037(2)
22 declaring that the Commission violated the OML and denied each Assemblyman and the legal
23 representatives of each Assemblyman rights conferred by the OML when the Commission failed to
24 satisfy the OML's personal notice and proof-of-service requirements for the December 16, 2015 meeting

1 at which the Commission took action on Agenda Item No. 4 regarding the attempted ratification of the
2 appeal in Hansen I (ethics case), which necessarily involved consideration of the Assemblymen's
3 character, alleged misconduct or professional competence as assailed in Hansen I (ethics case).

4 72. Based on the foregoing OML violations, the Assemblymen respectfully request that the
5 Court enter an order under NRS 241.037(2) declaring void the Commission's action during the
6 December 16, 2015 meeting on Agenda Item No. 4 regarding the attempted ratification of the void
7 notice of appeal in Hansen I (ethics case) to make it effective retrospectively during the jurisdictional
8 appeal period.

9 73. Based on the foregoing OML violations, the Assemblymen respectfully request that the
10 Court enter an order under NRS 241.037(2) enjoining the Commission from taking any further or future
11 action that in any way constitutes an attempted ratification of the void notice of appeal in Hansen I
12 (ethics case) to make it effective retrospectively during the jurisdictional appeal period.

13 74. Based on the foregoing OML violations, the Assemblymen respectfully request that the
14 Court enter an order under NRS 241.037(2) requiring the payment of reasonable attorney's fees and
15 court costs by the Commission.

16 75. The Assemblymen respectfully request that the Court enter an order granting such other
17 relief as the Court may deem just and proper.

18 //

19 //

20 //

21 //

22 //

23 //

24 //

1 The undersigned hereby affirm that this document does not contain "personal information about
2 any person" as defined in NRS 239B.030 and 603A.040.

3 DATED: This 16th day of February, 2016.

4 Respectfully submitted,

5 **BRENDA J. ERDOES**
6 Legislative Counsel

7 By: 

KEVIN C. POWERS, Chief Litigation Counsel
8 Nevada Bar No. 6781

EILEEN G. O'GRADY, Chief Deputy Legislative Counsel
9 Nevada Bar No. 5443

10 LEGISLATIVE COUNSEL BUREAU, LEGAL DIVISION
401 S. Carson Street
Carson City, Nevada 89701

11 Tel: (775) 684-6830; Fax: (775) 684-6761

12 *Attorneys for the Plaintiffs*

INDEX OF EXHIBITS

Exhibit No.	Description	Number of Pages
1	Commission on Ethics, Notice of Public Meeting and Agenda for December 16, 2015 Meeting of the Commission on Ethics.	2
2	Commission on Ethics, Certified Transcript of December 16, 2015 Meeting of the Commission on Ethics.	27

Plaintiffs' Complaint

Exhibit 1

Plaintiffs' Complaint

Exhibit 1



**STATE OF NEVADA
COMMISSION ON ETHICS**
<http://ethics.nv.gov>

NOTICE OF PUBLIC MEETING

NAME OF ORGANIZATION: NEVADA COMMISSION ON ETHICS
DATE & TIME OF MEETING: Wednesday, December 16, 2015 at 1:30 p.m.
PLACE OF MEETING: This meeting will be held at the following location:

**Workforce Connections
6330 West Charleston Blvd., Suite 150
Las Vegas, Nevada 89146**

AGENDA

NOTES:

- Two or more agenda items may be combined for consideration.
- At any time, an agenda item may be taken out of order, removed, or delayed.
- Public comment will be accepted at the beginning of the open session and again before the conclusion of the open session of the meeting. Comment and/or testimony by the public may be limited to three (3) minutes. No action may be taken on any matter referred to in remarks made as public comment. Members of the public may also submit written public comment to the Commission at NCOE@ethics.nv.gov.

	1. Call to Order, Roll Call, and Pledge of Allegiance to the Flag.
	2. Public Comment. Comment and/or testimony by any member of the public will be limited to three (3) minutes. No action will be taken under this agenda item.
For Possible Action	3. Approval of Minutes of the September 16, 2015 Commission Meeting.
For Possible Corrective Action	4. Authorization for Commission Counsel to continue to defend and represent the interests of the Ethics Commission of the State of Nevada in pending legal proceedings entitled "Hansen and Wheeler vs. The Commission on Ethics of the State of Nevada", Case No. 15OC000761B, filed in the First Judicial District Court of Nevada, and associated Appeal filed in the Supreme Court of the State of Nevada, Case No. 69100, entitled "The Commission on Ethics of the State of Nevada vs. Hansen and Wheeler," including direction to Commission Counsel to continue to pursue the Appeal, and ratification and approval of the actions taken by Commission Counsel to file or institute the Appeal, as the official legal counsel of the Nevada Commission on Ethics. (This item is not an admission of wrongdoing for the purposes of civil action, criminal prosecution or injunctive relief.)

	<p>5. Report by Executive Director on agency status and operations, including:</p> <ul style="list-style-type: none"> • Commissioner Appointments • Associate Counsel Position • COGEL update • Education and outreach by the Commission. • RFO update and opinion status. • Budget report and other fiscal matters. • Proposed 2016 Commission Meeting dates
	<p>6. Commissioner Comments on matters including, without limitation, future agenda items, upcoming meeting dates and meeting procedures. No action will be taken under this agenda item.</p>
	<p>7. Public Comment. Comment and/or testimony by any member of the public may be limited to three (3) minutes. No action will be taken under this agenda item.</p>
	<p>8. Adjournment.</p>

NOTES:

- ❖ The Commission is pleased to make reasonable accommodations for any member of the public who has a disability and wishes to attend the meeting. If special arrangements for the meeting are necessary, please notify the Nevada Commission on Ethics, in writing at 704 W. Nye Lane, Ste. 204, Carson City, Nevada 89703; via email at ncoe@ethics.nv.gov or call 775-687-5469 as far in advance as possible.
- ❖ To request an advance copy of the supporting materials for any open session of this meeting, contact Executive Director Yvonne M. Nevarez-Goodson, Esq. at ncoe@ethics.nv.gov or call 775-687-5469.
- ❖ This Agenda and supporting materials are posted and are available not later than the 3rd working day before the meeting at the Commission's office, 704 W. Nye Lane, Ste. 204, Carson City, Nevada, or on the Commission's website at www.ethics.nv.gov. A copy also will be available at the meeting location on the meeting day.

This Notice of Public Meeting and Agenda was posted in compliance with NRS 241.020 before 9:00 a.m. on the third working day before the meeting at the following locations:

- Nevada Commission on Ethics, 704 W. Nye Lane, Suite 204, Carson City
- Nevada Commission on Ethics' website: <http://ethics.nv.gov>
- Nevada Public Notice Website: <http://notice.nv.gov>
- State Library & Archives Building, 100 North Stewart Street, Carson City
- Blasdel Building, 209 E. Musser Street, Carson City
- Washoe County Administration Building, 1001 East 9th Street, Reno
- Grant Sawyer State Office Building, 555 E. Washington Ave., Las Vegas

Plaintiffs' Complaint
Exhibit 2

Plaintiffs' Complaint
Exhibit 2

BEFORE THE NEVADA COMMISSION ON ETHICS

-oOo-

AGENDA

WEDNESDAY, DECEMBER 16, 2015

Workforce Connections
6330 West Charleston Boulevard
Suite 150
Las Vegas, Nevada 89146

Reported by: ERIC V. NELSON, CCR #57, RPR, CM

A P P E A R A N C E SCOMMISSION MEMBERS PRESENT

CHERYL A. LAU, Chairwoman
KEITH A. WEAVER
MAGDALENA GROOVER
JOHN C. CARPENTER
BARBARA GRUENEWALD
DAN STEWART

EXECUTIVE DIRECTOR

YVONNE NEVAREZ-GOODSON

COMMISSION COUNSEL

TRACY CHASE

I N D E X

ITEM	PAGE
1. Call to Order, Roll Call, and Pledge of Allegiance to the Flag.....	4
2. Public Comment.....	5
Mike McGreer.....	5
3. Approval of Minutes of the September 16, 2015 Commission Meeting.....	7
4. Authorization for Commission Counsel to continue to defend and represent the interests of the Ethics Commission of the State of Nevada in pending legal proceedings entitled "Hansen and Wheeler vs. The Commission on Ethics of the State of Nevada," Case No. 150C000761B, filed in the First Judicial District Court of Nevada, and associated Appeal filed in the Supreme Court of the State of Nevada, Case No. 69100, entitled "The Commission on Ethics of the State of Nevada vs. Hansen and Wheeler," including direction to Commission Counsel to continue to pursue the Appeal, and ratification and approval of the actions taken by Commission Counsel to file or institute the Appeal, as the official legal counsel of the Nevada Commission on Ethics.....	8
5. Report by Executive Director on agency status and operations.....	11
6. Commission Comments on matters including, without limitation, future agenda items, upcoming meeting dates and meeting procedures...	19
7. Public Comment.....	20
Sandra Ramaker.....	20
8. Adjournment.....	26

1 LAS VEGAS, NEVADA, WEDNESDAY, DECEMBER 16, 2015, 1:40 P.M.

2 -o0o-

3
4 1. Call to Order, Roll Call, and Pledge of
5 Allegiance to the Flag

6 CHAIRWOMAN LAU: Good afternoon and welcome.
7 This is December 16th, 2015, and this is the time and place
8 for the Nevada Commission on Ethics meeting. I will
9 commence with a roll call. Vice Chair Weaver.

10 COMMISSIONER WEAVER: Present.

11 CHAIRWOMAN LAU: Commissioner Carpenter.

12 COMMISSIONER CARPENTER: Here.

13 CHAIRWOMAN LAU: Commissioner Groover.

14 COMMISSIONER GROOVER: Here.

15 CHAIRWOMAN LAU: Commissioner Gruenewald.

16 COMMISSIONER GRUENEWALD: Here.

17 CHAIRWOMAN LAU: Commissioner Stewart.

18 COMMISSIONER STEWART: Here.

19 CHAIRWOMAN LAU: The Chair is present, and
20 Commissioner Shaw is excused. And we have Executive
21 Director Yvonne Nevarez-Goodson and Commission Counsel Tracy
22 Chase.

23 Commissioner Groover, would you please lead us
24 in the Pledge of Allegiance.

25 (Pledge of allegiance.)

1 **2. Public Comment**

2 CHAIRWOMAN LAU: We will proceed to Agenda Item
3 No. 2. The floor is open for public comments, and the
4 public comment is invited to come up and state your name,
5 spell your last name, and you would have three minutes for
6 your comments. Welcome.

7 MR. MCGREER: Thank you. My name is Mike, and
8 the last name is McGreer, M-c-G-r-e-e-r.

9 CHAIRWOMAN LAU: Thank you, Mr. McGreer.

10 MR. MCGREER: I retired to Mesquite about 10
11 years ago from the Washington, D.C. area where I had served
12 about 45 years in government service. So government ethics
13 is and remains important to me. I'm somewhat "disconcerned"
14 that the Center for Public Integrity gave Nevada an F and
15 ranks the state 46th in public integrity. I'm sure you all
16 realize that and are likely concerned with it.

17 What I would like to say now is that I'm also a
18 principal in Let's Talk Nevada. That is a social media site
19 where individuals are free to discuss issues important to
20 them. As a member of the Nevada Press Association and the
21 Society for Professional Journalism, I wish to briefly
22 address the Commission's role and called upon to evaluate
23 Nevada journalists running for and holding a public office.

24 Our society simply says no. I however do
25 realize that it is not your job to pass on the journalistic

1 ethics of an individual reporter or an editor working for a
2 media outlet. However, as you well know, one of your many
3 tasks is to pass on the individuals who appear to have a
4 conflict between their private interests and their public
5 commitments to the public they serve.

6 I do understand the difficulty you face in
7 balancing the pursuit of a prosecution versus providing
8 advice, and I also understand the difficulty you have in
9 determining what a willful violation may be.

10 I understand how difficult it must be to judge
11 whether an individual failed to hold a public office as a
12 public trust or failed to avoid conflict of interests.

13 I offer just a simple solution. Information
14 has value and that value can be measured. If an individual
15 who claims to be a journalist or an editor is either writing
16 about issues that are of the same jurisdiction as their
17 public office and they are paid for that, there is a direct
18 correlation or an indirect correlation between their payment
19 and what they are saying.

20 On the other hand, if that same individual who
21 is also a reporter or an editor is sitting in a public trust
22 position on a public forum, for example, water or electrical
23 or whatever, and that individual is in fact making comments
24 directly to that individual's own reporter who is sitting in
25 the audience and therefore reporting on what that individual

1 is saying, that is a direct conflict. The person, by the
2 way, is also getting paid for that.

3 Fundamentally, this journalist, whoever that
4 person may be acting as a politician, is fundamentally
5 benefitting herself both for money which she is paid for and
6 by having the advantage of presenting her views either to
7 the reporter by sitting on her public post or by writing
8 about the subject.

9 Therefore, in my opinion, there is a direct
10 pecuniary interest between that individual who is claiming
11 to be an editor and a journalist reporting on information
12 about the public agency she sits on and the payment she
13 gets. That to me, should this issue come up again, I know
14 it is before you now, but should it come up again, I think
15 there is a direct line between that information she is
16 providing and the payment she is receiving. I thank you.

17 CHAIRWOMAN LAU: Thank you very much,
18 Mr. McGreer.

19 Does anyone else want to come up and provide
20 public comments?

21 **3. Approval of Minutes of the September 16, 2015**
22 **Commission Meeting.**

23 CHAIRWOMAN LAU: Let's turn to agenda item 3.
24 Please turn to the minutes of the September 16th, 2015,
25 meeting, that is tab 3. Are there any corrections or

1 additions to be made regarding the minutes?

2 MS. CHASE: Madam Chair, Tracy Chase,
3 Commission Counsel. Without Commissioner Shaw present at
4 this meeting, because we will have two individuals
5 abstaining because they were not present at the meeting to
6 do it, but we do have four of the Commission to actually --
7 we would need five to pass a matter. So I would suggest
8 that you continue the matter.

9 CHAIRWOMAN LAU: Thank you, Commission Counsel,
10 we will continue this matter on item 3.

11 **4. Authorization for Commission Counsel to continue to**
12 **defend and represent the interests of the Ethics**
13 **Commission of the State of Nevada in pending legal**
14 **proceedings entitled "Hansen and Wheeler vs. The**
15 **Commission on Ethics of the State of Nevada," Case**
16 **No. 15OC000761B, filed in the First Judicial District**
17 **Court of Nevada, and associated Appeal filed in the**
18 **Supreme Court of the State of Nevada, Case No. 69100,**
entitled "The Commission on Ethics of the State of
Nevada vs. Hansen and Wheeler," including direction to
Commission Counsel to continue to pursue the Appeal,
and ratification and approval of the actions taken by
Commission Counsel to file or institute the Appeal, as
the official legal counsel of the Nevada Commission on
Ethics.

19 CHAIRWOMAN LAU: Please turn to agenda item 4.
20 We need an authorization for Commission Counsel to continue
21 to defend and represent the interests of the Ethics
22 Commission in pending legal proceedings regarding Hansen and
23 Wheeler, or you may direct Commission Counsel not to
24 continue to defend and represent the interests of the Ethics
25 Commission. May I have a comment, a question.

1 COMMISSIONER WEAVER: Or a motion?

2 CHAIRWOMAN LAU: Or a motion.

3 COMMISSIONER WEAVER: Madam Chair, I move that
4 Commission Counsel be authorized to continue to defend and
5 represent the interests of the Ethics Commission and the
6 State of Nevada in pending legal proceedings entitled Hansen
7 and Wheeler versus the Commission on Ethics of the State of
8 Nevada.

9 CHAIRWOMAN LAU: Thank you, Vice Chair Weaver.
10 Do I hear a second?

11 COMMISSIONER GROOVER: I second.

12 CHAIRWOMAN LAU: Thank you, Commissioner
13 Groover.

14 COMMISSIONER WEAVER: Madam Chair, may I just
15 add something I should have? That also includes the appeal,
16 please. Thank you.

17 MS. CHASE: Madam Chair, Tracy Chase,
18 Commission Counsel. Commissioner Weaver, would you clarify?
19 Would that also include ratification of all actions taken by
20 Commission Counsel on behalf of the Executive Director and
21 Commission Chair to file the appeal and pursue that in that
22 manner?

23 Because at the time the Commission did not meet
24 in open session, they did not meet in quorum, and there were
25 no serial communications to provide that direction. So the

1 direction was taken from the Chair and the Executive
2 Director by Commission Counsel to pursue that appeal. So
3 ratification of those actions would be appreciated.

4 COMMISSIONER WEAVER: Yes, it does, and I
5 intended to include that and forgot. So thank you.

6 CHAIRWOMAN LAU: Thank you. And the second?

7 COMMISSIONER GROOVER: I second.

8 COMMISSIONER CARPENTER: Madam Chairman, I have
9 a conflict on this so I won't be voting.

10 CHAIRWOMAN LAU: Thank you very much,
11 Commissioner Carpenter.

12 MS. CHASE: Commissioner Carpenter, this is
13 Tracy Chase, Commission Counsel. Could you put on the
14 record what your disclosure is and what your conflict is,
15 please?

16 COMMISSIONER CARPENTER: Thank you. I was in
17 the State Legislature for 24 years, and the Legislative
18 Counsel Bureau was, I guess you would say, my attorney in
19 all legislative matters. I feel I have a conflict and I
20 will not be voting on it.

21 CHAIRWOMAN LAU: Thank you, Commissioner
22 Carpenter. Any other questions, comments prior to the vote?

23 All right. I call for the question. Those in
24 favor of the motion say aye. Those opposed? Unanimously
25 passed.

(Whereupon, the motion was put to a
vote and carried as follows:)

COMMISSIONER GROOVER:	Aye.
COMMISSIONER WEAVER:	Aye.
COMMISSIONER GRUENEWALD:	Aye.
COMMISSIONER STEWART:	Aye.
COMMISSIONER LAU:	Aye.

CHAIRWOMAN LAU: Thank you.

**5. Report by Executive Director on agency status and
operations**

CHAIRWOMAN LAU: We will then turn to agenda
item 5. This is a presentation by Executive Director
Nevarez-Goodson regarding the agency status and operations.

MS. NEVAREZ-GOODSON: Thank you, Chair Lau. I
had a report of a few items for today's agenda, if you will
bear with me and indulge a few moments, just to give you
some updates of some staff happenings since our last
meeting.

First and foremost, I wanted to welcome the two
most recent Commissioner appointments to the Nevada
Commission on Ethics. As the Commission is well aware, we
have suffered several vacancies on our Commission in recent
months, and the Legislative Commission recently appointed
Dan Stewart and Barbara Gruenewald to join us as members of
the Nevada Commission on Ethics. I welcome them and their
participation on the Commission.

Mr. Stewart joins us as a former public officer

1 having served as Henderson Planning Commissioner, and
2 Barbara Gruenewald joins us as a licensed attorney in the
3 state of Nevada, who will represent those interests as
4 statutorily required under NRS 281A.200.

5 So I think the rest of the group is all with me
6 in welcoming you to join the Commission and we look forward
7 to your service.

8 Secondly, I wanted to provide an update to the
9 Commission regarding the vacancy in our Associate Counsel
10 position. We have recently filled that position with Judy
11 Prutzman. She is scheduled to start on June 11, 2016.

12 For those of you who might be unfamiliar with
13 Judy Prutzman, she currently serves as the Public
14 Information Officer for the Department of Education for the
15 State of Nevada, and she formerly served in Governor
16 Sandoval's administration as a policy advisor. In that
17 capacity she actually held a position which was a liaison
18 between the Governor's office and the Ethics Commission
19 during that time where I had occasion to meet her on a
20 couple of occasions and since was surprised and happy to see
21 that she had applied for the Associate Counsel position.

22 Miss Prutzman also served as Governor
23 Sandoval's legal law clerk when he was a federal court
24 judge, and so she comes to us with a variety of experiences,
25 and we are looking forward to having her join us.

1 As you know, any staff vacancy creates a lot of
2 backlogs, if you will, for us. So we rely very heavily on
3 every position that we have on our staff, which we all know
4 is limited to the mere six of us. So she will be a welcome
5 addition starting the new year, and we can look forward to
6 some new issues and new presentations from Miss Prutzman the
7 beginning of the year.

8 I meant January 11th, 2016. Sorry about that.
9 Did I say July? I must be thinking of summer already.

10 Does anybody have any questions about our new
11 Associate Counsel position?

12 Great. Next I wanted to give you an update on
13 the recent COGEL conference that was attended by Commission
14 Counsel Tracy Chase and I. The COGEL organization is the
15 Council on Government Ethics Laws. It is the only
16 organization that I'm aware of in the nation that combines
17 and brings together various government ethics lawyers,
18 executive directors and commissioners, to come together and
19 talk about the issues that are facing the various
20 commissions throughout the nation. The federal government
21 also makes an appearance and offers their perspective about
22 what issues that those organizations are facing either in
23 Congress or in the Senate. And it is really a great
24 training opportunity.

25 It is the first time the State has provided

1 funding for our staff to attend that conference. It was
2 very well received, I think, by both Miss Chase and myself.
3 We got to meet a lot of good people, but we also got a lot
4 of really interesting information to see some of the trends
5 that are going on in the various states and how we might be
6 able to offer some reforms to our own provisions.

7 So I'm looking forward, based on that training
8 and that opportunity, to kind of bring some new ideas to the
9 Commission. I'll present them more formally as we kind of
10 wrap our arms them, but I'm hoping to get some feedback from
11 the Commission about how we might try to adopt some of those
12 provisions or learn from what our colleagues are doing in
13 other jurisdictions.

14 Any questions about COGEL? Great. You will
15 also be happy to know that while we were burning the hours
16 at the conference, your staff was also diligently working to
17 get these meeting materials to you in time. So I credit
18 Tracy for all of her efforts, pulling double time during
19 that conference to get that accomplished.

20 Next I want to give a brief update on our
21 education and outreach program. As the Commission is well
22 aware, our primary mission is to be proactive as opposed to
23 reactive and to get out there and try to educate our public
24 employees and public officers throughout the state.

25 At the last meeting I probably gave you a very

1 general update about how we are progressing, but I'm here to
2 tell you that there has been no shortage of training being
3 offered by our staff. Primarily I have been traversing the
4 various jurisdictions in the state of Nevada to try to
5 provide this outreach. I have a list of a few that I have
6 engaged in since our last meeting, which include the City of
7 Henderson, City of Reno, we have done the CPM program, which
8 is the Certified Public Manager program, both in Carson City
9 and down here in Las Vegas.

10 You will all probably recall that I am
11 currently a participant in the CPM program in Carson City,
12 and it was kind of fun actually to be able to train my own
13 class on the Ethics in Government Law because it really did
14 give a ripe opportunity for questions and open and honest
15 issues that our public employees and public officers are
16 facing throughout the state, and I really did take a lot
17 away from that type of training, things again I'll bring
18 back to the Commission in terms of reforms that we might be
19 able to think about in the coming session.

20 Beyond that we have done other programs where
21 we have done outreach in education to state employees. Some
22 great ideas that have come out of that potential training
23 have included perhaps making ethics training for our public
24 employees just as critical and responsible as state
25 employees might be for participating in, for example, sexual

1 harassment training, things of that nature, defensive
2 driving if they are driving state motor pool vehicles. So
3 we are going to initiate a program with state HR through the
4 state system, it is known as NEATS, to provide our training
5 online to allow people to contact us to book trainings both
6 live and make it an attempt to get something digital in form
7 available for all of the public officers and public
8 employees.

9 Getting that outreach to the local government
10 is going to be a bigger challenge because we don't have the
11 same resources that we do in the state system considering
12 that we are currently a state agency, but I am looking
13 forward to considering bringing forward ideas to get our
14 outreach in education really a component of a requirement
15 for being a public employee or public officer.

16 Next I wanted to just give you a brief update
17 on our budget report and other fiscal matters. Currently we
18 are in our base budget year of the biennium which will
19 expire on June 30th, 2016. As you all are aware, we are
20 trying to make sure that we meet our threshold budget for
21 this fiscal year because it sets the tone for how we will
22 build our budget for the next biennium.

23 I'm pleased to present that we are right on
24 track for spending that budget appropriately in this fiscal
25 year. Primarily our travel budget is right on track to be

1 spent in consideration of the travel that the Commissioners
2 need, as well as the travel that is required by staff to
3 conduct investigations and to otherwise engage in our
4 training and outreach effort.

5 If you have any questions about the budget,
6 please let me know, but as the new year begins, January 1,
7 I'll be working with our fiscal staff to start preparing our
8 budget for the next biennium. So it will be important for
9 you to bring to my attention anything that you think might
10 be appropriate for us to present in the next budget.

11 And then finally, I thought that we had
12 included in your materials the proposed meeting dates for
13 2016. Is it in here?

14 COMMISSIONER WEAVER: It is in here.

15 MS. NEVAREZ-GOODSON: It is the last page of
16 your book. If we are consistent with past practice, we tend
17 to hold our meetings on the third Wednesday of the month.
18 If you guys have an opportunity to change that, if there is
19 a different date that is of preference to you, this date has
20 seemed to work out pretty well for staffing reasons and
21 otherwise. But if you could all please, unless there is
22 some direction otherwise, calendar for the next year those
23 dates.

24 We are going to try to keep it to one-day
25 meetings on those dates. And we are also going to try to be

1 consistent with our effort to not have a meeting every
2 month, both for cost saving measure and also to assist staff
3 in its ability to get the work done instead of preparing for
4 the next meeting.

5 At this point in time we are definitely
6 scheduled to have a January 20th meeting. We have a very
7 full agenda for that meeting. So we expect our southern
8 Commissioners to travel to Carson City for that meeting.

9 I'm hoping to skip a February meeting, but we
10 may need to be able to call a teleconference to be able to
11 accommodate some of the workload that's been flooding in, in
12 particular the first-party requests for opinion that we have
13 seen coming our way. But I ask, in any event, unless there
14 is some concern about continuing on the third Wednesday of
15 the month, that our Commissioners go ahead and calendar
16 those dates for the next year.

17 And with that, Chair Lau, I think that
18 concludes my report to the Commission.

19 CHAIRWOMAN LAU: Thank you, Executive Director.

20 Are there any questions or comments as far as
21 the presentation by the Executive Director?

22 MS. NEVAREZ-GOODSON: Madam Chair, I failed to
23 update you on the RFO and opinion status. I apologize.

24 What you will also find in your meeting packets
25 is an update of our current status of requests for opinion

1 as well as our opinion status, and I think we are again
2 right on track. There might be what appears to be a slight
3 backlog of written opinions being issued, but I assure you
4 those are all in process of being either circulated or
5 finalized by staff and by the Commission.

6 So I don't anticipate that there is going to be
7 any problem with the backlog with regard to those opinions.
8 And you will also see on that chart that it indicates the
9 cases which are currently pending and investigation by
10 Commission staff. So if you have any questions for your
11 next agenda item, that result from that particular chart, or
12 if you have questions after today's meeting, you are welcome
13 to give me a call and I'll provide you an update with
14 pending status of those matters.

15 CHAIRWOMAN LAU: Thank you, Executive Director.

16 Any questions or comments for the Executive
17 Director? Thank you very much.

18 **6. Commissioner Comments on matters including, without**
19 **limitation, future agenda items, upcoming meeting dates**
and meeting procedures

20 CHAIRWOMAN LAU: We will then proceed to item 6
21 in your agenda, and this is the time for Commissioner
22 comments.

23 COMMISSIONER WEAVER: Madam Chair.

24 CHAIRWOMAN LAU: Vice Chair Weaver.

25 COMMISSIONER WEAVER: I would just like to

1 welcome Commissioners Gruenewald and Stewart, say we are
2 certainly happy to have you onboard in all respects.
3 Welcome.

4 COMMISSIONER STEWART: Thank you. I look
5 forward to working with you all. Thank you for the
6 opportunity.

7 CHAIRWOMAN LAU: Any other Commissioners's
8 comments?

9 COMMISSIONER CARPENTER: They need to be
10 prepared for a lot of reading.

11 CHAIRWOMAN LAU: Thank you, Commissioner
12 Carpenter.

13 **7. Public Comment**

14 CHAIRWOMAN LAU: We are now at agenda item 7.
15 This is the time for public comments. Mr. McGreer, do you
16 have any additional comments, sir?

17 MR. MCGREER: No, ma'am. Thank you very much.

18 CHAIRWOMAN LAU: All right. Anyone else?

19 Yes, please come forward and please state your
20 name and spell your last name. You have three minutes for
21 your comments.

22 MS. RAMAKER: Sandra Ramaker, R-a-m-a-k-e-r,
23 Virgin Valley Water District, Mesquite, Nevada.

24 I am very disappointed today.

25 CHAIRWOMAN LAU: Excuse me. Would you turn on

1 your microphone? Thank you.

2 MS. RAMAKER: I'm very disappointed that I
3 didn't get to see how you go about doing your RFOs. When I
4 saw that on the agenda today, I came here hoping to see how
5 you reach these opinions and get more information as to how
6 and why these opinions are made. So I'm very disappointed
7 to not have that happen today.

8 I had some very direct questions on the letter
9 I got before I did the appeal that you had made a comment in
10 it that I had not given minimal level of evidence, and yet I
11 don't understand what your requirement for a minimal. I had
12 sent information, I sent a witness letter, I sent a copy of
13 the video, that particular one instance. So I don't
14 understand and I'm looking for more information on that.

15 On the appeal I did send more information and
16 more items that had happened during that time. And so I'm
17 just really confused and am looking for information and was
18 hoping to hear what that decision was today and how you
19 reach it since it was on the agenda and on the thing.

20 In any case, I am the requester of 15-50, to
21 specify what that was. And I just -- you know, I know that
22 there is different standards for both elected officials and
23 for journalists and public in general, but I honestly
24 believe that the general statement that has to do with being
25 a public official states something to the nature of if it

1 appears to the average person that there is a conflict, then
2 there is a conflict and you should abstain from it.

3 So I find that an important issue. You are the
4 Ethics Commission, and I hold you probably to a higher
5 standard because you are basically what sets ethics for all
6 of us and tells us what -- I know it is your opinion, and
7 now I am hoping to find out more as to how this came about,
8 what the decision is and when that will come down since it
9 is not in the public. Thank you.

10 CHAIRWOMAN LAU: Miss Ramaker, first of all, we
11 really appreciate your presence here. Your comments are
12 very thoughtful, and we will take your comments under
13 consideration when we do this jurisdictional appeal. We
14 thank you very much for being here.

15 MS. RAMAKER: Thank you for your time.

16 CHAIRWOMAN LAU: Miss Ramaker, we are going to
17 tell you a bit about the procedures that we undertake with
18 this jurisdictional appeal.

19 MS. RAMAKER: Thank you.

20 MS. NEVAREZ-GOODSON: Good afternoon. I just
21 wanted to provide an opportunity to make sure that our
22 public understands the process that the Commission
23 undertakes when it evaluates requests for opinion that come
24 to our office.

25 First what happens typically is when a request

1 for opinion is filed with the Ethics Commission, the
2 Commission's legal counsel and myself, as the Executive
3 Director, we evaluate those requests for opinion for various
4 matters. The first is whether or not it is filed in the
5 proper form. The second is whether it is signed by a person
6 who is attesting to the fact that they believe that there's
7 been a violation. And the third is this evidentiary
8 standard and it is evidence which supports a reasonable
9 belief of a violation.

10 So whereas you might feel that you have
11 presented evidence, we have to evaluate it for evidentiary
12 standard that supports a violation of NRS 281A. And what
13 happens if the Commission Counsel and I review that evidence
14 that's been submitted with a request for opinion and
15 determine that that evidence in our opinion does not satisfy
16 that evidentiary threshold of a violation of 281A, then it
17 initiates the appeal process for either the requester or the
18 subject to file an appeal of that staff determination to the
19 full Commission.

20 The nature of our request for opinion in
21 third-party cases are very sensitive and protected by strict
22 statutory confidentiality provisions, and that is primarily
23 for the protection of any subject, because we want to
24 protect the identity of a subject in allegations against a
25 subject before there's been a fair due process in terms of

1 being able to notify the subject of the allegations and the
2 fact that the Commission has or has not accepted
3 jurisdiction and/or whether we will initiate an
4 investigation in that case.

5 Because of those strict statutory
6 confidentiality provisions, the Commission is not subject to
7 the Open Meeting Law with regard to issues that confront
8 requests for opinion. We are able and allowed to deliberate
9 and discuss and make action on requests for opinion outside
10 of the opinion status to protect those due process
11 interests.

12 When we are talking about a third-party request
13 for opinion, what we do require after we have gone through a
14 panel setting, if we do accept jurisdiction, we will conduct
15 an investigation, and we will present the evidence that we
16 discover during the course of an investigation to what is
17 known as an investigatory panel of our Commission and that
18 is two members of our Commission. Those members may not be
19 from the same political party, again, in an effort to
20 achieve balance.

21 And if that investigatory panel reviews the
22 evidence received from the investigation and from the
23 subject and feels that there is sufficient evidence to move
24 forward to a full Commission, the full Commission will
25 notice a hearing and that can result in several things. We

1 can either make a settlement resolution because the parties
2 will agree that the evidence is sufficient to find a
3 violation, it could end up in a dismissal if the evidence is
4 deemed not to be sufficient, or the Commission could go
5 forward to a full evidentiary hearing and render its
6 decision at that point.

7 In a third-party case, while the Commission,
8 after we get to a panel, while the Commission might
9 deliberate in private, it is typically the practice of the
10 Commission for transparency purposes to sometimes deliberate
11 in public but always issue its final decision in a
12 third-party case in a public meeting. So only after the
13 point at which the investigatory panel has made its decision
14 whether to go forward or not does the case actually become
15 public. And that is sort of the statutory limits on our
16 confidentiality.

17 So when we undertake a jurisdictional analysis
18 for the full Commission which is on appeal of the staff's
19 decision, that also must occur in a confidential, private
20 setting. However, the results of that determination will
21 result in a written jurisdictional decision that will be
22 provided to both the requester and the subject.

23 If you have any other questions about our
24 procedures or when you do receive a jurisdictional
25 determination from this Commission, either Commission

1 Counsel Tracy Chase or myself would be happy to walk you
2 through the meaning of those things. And also if requests
3 for opinion are dismissed for lack of sufficient evidence,
4 it is dismissal without prejudice, which means if additional
5 evidence were available to support a violation, you are
6 permitted as a requester to refile that.

7 CHAIRWOMAN LAU: Thank you, Madam Executive
8 Director. Miss Ramaker, again, thank you for your comments,
9 and also Mr. McGreer, thank you for your comments. We will
10 pay attention to them.

11 MS. RAMAKER: Thank you for the explanation.

12 **8. Adjournment**

13 CHAIRWOMAN LAU: Please turn to agenda item 8.
14 This is the time for adjournment. May I have a motion on
15 adjournment?

16 COMMISSIONER WEAVER: Madam Chair.

17 CHAIRWOMAN LAU: Yes, Vice Chair Weaver.

18 COMMISSIONER WEAVER: I move to adjourn.

19 CHAIRWOMAN LAU: Thank you. Second? Do I hear
20 a second?

21 COMMISSIONER GROOVER: Second.

22 CHAIRWOMAN LAU: Thank you very much, Madam
23 Groover. It has been moved and seconded to adjourn the
24 meeting. The meeting is now adjourned. Thank you.

25 (Meeting adjourned at 2:12 p.m.)

1 STATE OF NEVADA,)
2) ss.
3 COUNTY OF WASHOE.)
4

5 I, ERIC V. NELSON, Certified Court Reporter and
6 a notary public in and for the County of Washoe, State of
7 Nevada, do hereby certify:

8 That I was present at the meeting of the NEVADA
9 COMMISSION ON ETHICS on Wednesday, December 16, 2015, and
10 thereafter took stenotype notes of the proceedings, and
11 thereafter transcribed the same into typewriting as herein
12 appears;

13 That the foregoing transcript is a full, true
14 and correct transcription of my stenotype notes of said
15 proceedings.

16 Dated at Reno, Nevada, this 21st day of
17 December 2015.

18
19
20
21
22 _____
ERIC V. NELSON, CCR #57
23
24
25

Respondents' Motion to Dismiss Appeal, Etc.

Supplemental Exhibit H

1 BRENDA J. ERDOES, Legislative Counsel
Nevada Bar No. 3644
2 KEVIN C. POWERS, Chief Litigation Counsel
Nevada Bar No. 6781
3 EILEEN G. O'GRADY, Chief Deputy Legislative Counsel
Nevada Bar No. 5443
4 LEGISLATIVE COUNSEL BUREAU, LEGAL DIVISION
401 S. Carson Street
5 Carson City, Nevada 89701
Tel: (775) 684-6830; Fax: (775) 684-6761
6 E-mail: kpowers@lcb.state.nv.us; ogrady@lcb.state.nv.us
Attorneys for Plaintiffs

REC'D & FILED
2016 FEB 16 PM 3: 03
SUSAN MERRIWETHER
CLERK
V. Alegria
BY _____ DEPUTY

8 **IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
9 **IN AND FOR CARSON CITY**

10 IRA HANSEN, in his official capacity as Nevada
State Assemblyman for Assembly
11 District No. 32; and JIM WHEELER, in his
official capacity as Nevada State Assemblyman
12 for Assembly District No. 39,

Case No. 16 OC 00029 1B
Dept. No. II

13 Plaintiffs,

14 vs.

15 THE COMMISSION ON ETHICS OF THE
STATE OF NEVADA,

16 Defendant.
17

18 **PLAINTIFFS' PROOF OF SERVICE OF**
19 **SUMMONS AND COMPLAINT**

20 The Plaintiffs, Ira Hansen, in his official capacity as Nevada State Assemblyman for Assembly
21 District No. 32, and Jim Wheeler, in his official capacity as Nevada State Assemblyman for Assembly
22 District No. 39 (the Assemblymen), by and through their counsel the Legal Division of the Legislative
23 Counsel Bureau (LCB), hereby file, pursuant to NRCP 4(g), Proof of Service of Summons and
24 Complaint on Defendant Commission on Ethics and on the Attorney General. The Affidavit of Service

1 of Summons and Complaint on the Commission on Ethics is attached as Exhibit 1, and the Affidavit of
2 Service of Summons and Complaint on the Attorney General is attached as Exhibit 2.


3 The undersigned hereby affirm that this document does not contain "personal information about
4 any person" as defined in NRS 239B.030 and 603A.040.

5 DATED: This 16th day of February, 2016.

6 Respectfully submitted,

7 **BRENDA J. ERDOES**
Legislative Counsel

8
9 By:


10 **KEVIN C. POWERS**, Chief Litigation Counsel
Nevada Bar No. 6781
11 **EILEEN G. O'GRADY**, Chief Deputy Legislative Counsel
Nevada Bar No. 5443
12 LEGISLATIVE COUNSEL BUREAU, LEGAL DIVISION
401 S. Carson Street
13 Carson City, Nevada 89701
Tel: (775) 684-6830; Fax: (775) 684-6761
14 *Attorneys for the Plaintiffs*

15 **CERTIFICATE OF SERVICE**

16 I hereby certify that I am an employee of the Nevada Legislative Counsel Bureau, Legal Division,
17 and that on the 16th day of February, 2016, pursuant to NRCP 5(b), I served a true and correct copy
18 of the foregoing document, by depositing the same in the United States Mail, postage prepaid, addressed
19 to the following:

20 Tracy L. Chase, Esq.
Commission Counsel
21 NEVADA COMMISSION ON ETHICS
704 W. Nye Lane, Suite 204
22 Carson City, NV 89703
Attorney for Respondent

23 
24 _____
An Employee of the Legislative Counsel Bureau

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

Proof of Service Exhibit 1

Proof of Service Exhibit 1

1 BRENDA J. ERDOES, Legislative Counsel
Nevada Bar No. 3644
2 KEVIN C. POWERS, Chief Litigation Counsel
Nevada Bar No. 6781
3 EILEEN G. O'GRADY, Chief Deputy Legislative Counsel
Nevada Bar No. 5443
4 LEGISLATIVE COUNSEL BUREAU, LEGAL DIVISION
401 S. Carson Street
5 Carson City, Nevada 89701
Tel: (775) 684-6830; Fax: (775) 684-6761
6 E-mail: kpowers@lcb.state.nv.us; ogrady@lcb.state.nv.us
Attorneys for Plaintiffs

7
8 **IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
9 **IN AND FOR CARSON CITY**

10 IRA HANSEN, in his official capacity as Nevada
State Assemblyman for Assembly
11 District No. 32; and JIM WHEELER, in his
official capacity as Nevada State Assemblyman
12 for Assembly District No. 39,

13 Plaintiffs,

14 vs.

15 THE COMMISSION ON ETHICS OF THE
STATE OF NEVADA,

16 Defendant.
17

Case No. 16 OC 00029 1B
Dept. No. II

18 **AFFIDAVIT OF SERVICE OF SUMMONS AND COMPLAINT ON**
19 **COMMISSION ON ETHICS OF THE STATE OF NEVADA**
20
21
22
23
24

AFFIDAVIT OF SERVICE OF SUMMONS AND COMPLAINT

STATE OF NEVADA)
) ss:
COUNTY OF CARSON)

Pursuant to NRCP 4, NRS 12.105 and any other applicable rules and laws of the State of Nevada, the
affiant (*print name*) Robert R. McDonald,
(*print title*) Police Officer, declares under penalty of perjury that:

1. I am over 18 years of age and not a party to or interested in the above-titled action.
2. I am a legislative police officer of the State of Nevada and have the powers of a peace officer
under NRS 289.210 and, as a peace officer, I am not required to be licensed to serve process under
NRS Chapter 648 (*see* NRS 648.014 & 648.018) or another provision of law. My business address and
telephone number are: 401 S. Carson St., Carson City, NV 89701, 775-684-6812.

3. I received a copy of the summons attached to a copy of the complaint in the above-titled action
on the 16th day of Feburary, 2016, and I personally served the same upon the defendant,
the Commission on Ethics of the State of Nevada, 704 W. Nye Lane, Suite 204, Carson City, NV 89703,
on the 16th day of Feburary, 2016, at the approximate time of 1:30 PM, at the
above address of the defendant in the city of Carson City, County of Carson, State of Nevada, by
personally delivering a copy of the summons attached to a copy of the complaint to (*check one*):

- ☐ Yvonne M. Nevarez-Goodson, Esq., Executive Director, Commission on Ethics.
☒ Tracy L. Chase, Esq., Commission Counsel, Commission on Ethics.
☐ A clerk, secretary or other agent at the above address of the Commission on Ethics:
(*Print name*) _____
(*Print title*) _____

Pursuant to NRS 53.045, I declare under penalty of perjury under the laws of the State of Nevada that
the foregoing is true and correct.

Executed on the 16th day of Feburary, 2016.

(Signature) 

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

Proof of Service Exhibit 2

**Proof of Service
Exhibit 2**

1 BRENDA J. ERDOES, Legislative Counsel
Nevada Bar No. 3644
2 KEVIN C. POWERS, Chief Litigation Counsel
Nevada Bar No. 6781
3 EILEEN G. O'GRADY, Chief Deputy Legislative Counsel
Nevada Bar No. 5443
4 LEGISLATIVE COUNSEL BUREAU, LEGAL DIVISION
401 S. Carson Street
5 Carson City, Nevada 89701
Tel: (775) 684-6830; Fax: (775) 684-6761
6 E-mail: kpowers@lcb.state.nv.us; ogrady@lcb.state.nv.us
Attorneys for Plaintiffs

7
8 **IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
9 **IN AND FOR CARSON CITY**

10 IRA HANSEN, in his official capacity as Nevada
State Assemblyman for Assembly
11 District No. 32; and JIM WHEELER, in his
official capacity as Nevada State Assemblyman
12 for Assembly District No. 39,

13 Plaintiffs,

14 vs.

15 THE COMMISSION ON ETHICS OF THE
STATE OF NEVADA,

16 Defendant.
17

Case No. 16 OC 00029 1B
Dept. No. II

18 **AFFIDAVIT OF SERVICE OF SUMMONS AND COMPLAINT ON**
19 **ATTORNEY GENERAL OF THE STATE OF NEVADA**
20
21
22
23
24

AFFIDAVIT OF SERVICE OF SUMMONS AND COMPLAINT

STATE OF NEVADA)
) ss:
COUNTY OF CARSON)

Pursuant to NRCP 4, NRS 12.105 and any other applicable rules and laws of the State of Nevada, the
affiant (*print name*) Robert R. McDonald,
(*print title*) Police Officer, declares under penalty of perjury that:

1. I am over 18 years of age and not a party to or interested in the above-titled action.
2. I am a legislative police officer of the State of Nevada and have the powers of a peace officer
under NRS 289.210 and, as a peace officer, I am not required to be licensed to serve process under
NRS Chapter 648 (*see* NRS 648.014 & 648.018) or another provision of law. My business address and
telephone number are: 401 S. Carson St., Carson City, NV 89701, 775-684-6812.

3. I received a copy of the summons attached to a copy of the complaint in the above-titled action
against the defendant, the Commission on Ethics of the State of Nevada, on the 16th day of
Feburary, 2016, and I personally served the same upon the Attorney General, 100 N. Carson
St., Carson City, NV 89701, on the 16th day of Feburary, 2016, at the approximate time
of 1:10 PM, at the above address in the city of Carson City, County of Carson, State of Nevada,
by personally delivering a copy of the summons attached to a copy of the complaint to (*check one*):

- ☐ Adam Paul Laxalt, Esq., Attorney General.
☒ A clerk, secretary or other agent at the above address of the Attorney General:
(*Print name*) Chelsea Mascari
(*Print title*) Admin. Assistant

Pursuant to NRS 53.045, I declare under penalty of perjury under the laws of the State of Nevada that
the foregoing is true and correct.

Executed on the 16th day of Feburary, 2016.

(Signature) 