

**BEFORE THE COMMISSION ON JUDICIAL CONDUCT AND ETHICS  
STATE OF WYOMING**

An inquiry concerning  
The Honorable Ruth Neely  
Municipal Court Judge and  
Circuit Court Magistrate  
Ninth Judicial District  
Pinedale, Sublette County

) COMMISSION ON JUDICIAL  
) CONDUCT AND ETHICS  
) COMMISSION ON JUDICIAL CONDUCT  
) No. 2014-27 AND ETHICS  
) Official Record  
) FILED 8/26/15  
) Date  
) Wendy J. Soto

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**THE HONORABLE RUTH NEELY'S RESPONSE  
TO THE COMMISSION'S MOTION FOR PROTECTIVE ORDER**

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The Commission on Judicial Conduct and Ethics ("Commission") is seeking to bar Judge Neely from obtaining relevant evidence critical to her defense against the Commission's attempt to remove her from judicial office. In light of Judge Neely's due process rights, and because the Commission's own governing rules and the Wyoming Rules of Civil Procedure plainly allow Judge Neely to obtain the discovery she seeks, the Presiding Officer of the Adjudicatory Panel should deny the Commission's Motion for Protective Order and compel the Commission to comply with Judge Neely's 30(b)(6) Notice of Deposition.

**Procedural Background**

On August 12, 2015, Judge Neely served on the Commission a Wy. R. Civ. P. 30(b)(6) Notice of Deposition ("Notice").<sup>1</sup> In that Notice, Judge Neely appropriately "describ[ed] with reasonable particularity the matters on which examination is requested" from the Commission.

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<sup>1</sup> Commission Rule 9 expressly incorporates Rule 30 of the Wyoming Rules of Civil Procedure. See Wy. R. J. Cond. and Ethics Comm., Rule 9(a) ("Rule[] . . . 30 . . . of the Wyoming Rules of Civil Procedure shall apply to all proceedings before the Commission or its panels . . .").

Wy. R. Civ. P. 30(b)(6). On August 19, 2015, without consulting Judge Neely's counsel, the Commission served upon Judge Neely its Motion for Protective Order ("Motion"). Although no particular relief is formally requested in the Motion, the Commission appears to be arguing that because it is constitutionally created, it does not come within the purview of Rule 30(b)(6), and it therefore need not comply with the Rule's dictate to "designate one or more officers, directors, or managing agents . . . to testify on its behalf . . . as to matters known or reasonably available to the organization." *Id.* In its Motion, the Commission also contends that the matters designated for examination by Judge Neely, save for the one pertaining to the Commission's allegations in this matter, seek information that is not discoverable because it is purportedly either confidential or constitutes an improper subject for inquiry.

#### Argument

In this proceeding, the Commission seeks to publicly censure and remove Judge Neely from her position as both a circuit-court magistrate and a municipal-town judge based upon her statement that her sincerely held religious beliefs would not permit her to solemnize same-sex marriages. *See* Commission Answer to Interrogatory No. 8 (Affidavit of Kenneth J. Connelly ("Connelly Aff."), Exhibit 1). The Commission contends that by making this statement Judge Neely violated Rules 1.1, 1.2, 2.2, and 2.3 of the Wyoming Code of Judicial Conduct ("Code"). *See* Notice of Commencement of Formal Proceedings ¶ B. 1 (Connelly Aff., Exhibit 2). Judge Neely responds that she has not violated the Code and that the Commission's attempt to apply the Code in this matter violates her rights under both the United States and Wyoming Constitutions. *See* Verified Answer of Judge Neely (Connelly Aff., Exhibit 3). To prepare her defense, Judge Neely is permitted by the Wyoming Constitution, the Wyoming Rules of Civil Procedure, and the Commission's Rules to obtain discovery regarding the matters designated in

her Notice, all of which are reasonably calculated to lead to the discovery of admissible evidence.

**I. The Commission is Subject to Rule 30(b)(6).**

In its Motion, the Commission states that the “CJCE is neither a corporation, partnership, association nor governmental entity,” but rather a “constitutionally created commission, promulgated pursuant to Wyo. Const. art. 5, §(e)(iv).” Motion at ¶ 1. Given the perfunctory nature of this argument, it is difficult to discern the Commission’s rationale. Taking the argument in its most basic form, the Commission seems to be claiming that it is not a governmental entity. But this argument makes no sense because nothing about the Commission suggests that it is anything other than a governmental entity. The caption of this very matter confirms that the Commission is an arm of the State. And the Commission’s constitutional pedigree serves only to cement its status as a governmental entity—after all, it was constitutionally created as part of the State’s “Judicial Department,” an undoubted governmental entity. *See* Wyo. Const. art. V, § 6; Wyo. Const. art. II, § 1 (“The powers of the *government* of this state are divided into three distinct departments.”) (emphasis added).

The Commission’s powers bolster the conclusion that it is a governmental entity. It has the power to “receive, investigate, hear, and adjudicate allegations of judicial misconduct” and also may independently “impose discipline” upon a judge. Wyo. R. J. Cond. and Ethics Comm., Rule 3. The Commission has itself essentially conceded that it is a government entity when it described in detail the “compelling state . . . interest in a fair and impartial judiciary” that it purports to advance through this proceeding. *See* Commission Answer to Interrogatory No. 10 (Connelly Aff., Exhibit 1). Indeed, if the Commission’s contention that it is not a government

entity is correct, it had no power to initiate this proceeding and lacks any authority to continue it. It thus cannot be doubted that the Commission is a governmental entity.

Given this, the Commission might mean to argue that a “commission” that is “constitutionally created” is somehow a special governmental entity exempt from complying with Rule 30(b)(6). But there is no significance to the label “commission” that insulates the Commission from discovery rules, and the mode of the Commission’s birth, whether statutory or constitutional, is legally immaterial. Not surprisingly, the Commission fails to cite any legal authority supporting its position. In fact, the relevant law undercuts the Commission’s claim for an exemption.

The plain language of Rule 30(b)(6) is straightforward and unambiguous:

A party may in the party’s notice and in a subpoena name as the deponent a public or private corporation or a partnership or association or governmental agency and describe with reasonable particularity the matters on which examination is requested. The organization so named shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf . . . .

Wy. R. Civ. P., Rule 30(b)(6). The Rule contains no qualifier suggesting that a “commission” or any other governmental entity not entitled “agency” is somehow excluded; nor does it provide that the mode of a governmental entity’s creation places it beyond the Rule’s scope.

Furthermore, persuasive case law confirms that the Commission does not fall outside Rule 30(b)(6). See *Graus v. OK Investments, Inc.*, 342 P.3d 365, 369 (Wyo. 2014) (noting that “federal court interpretations of their rules [of civil procedure] are highly persuasive in our interpretation of the corresponding Wyoming rules”). Indeed, federal courts have routinely held that governmental entities with labels other than “agency,” including governmental entities with the label “commission,” are subject to Rule 30(b)(6). See, e.g., *S.E.C. v. Merkin*, 283 F.R.D. 689, 696 (S.D. Fla.) *objections overruled*, 283 F.R.D. 699 (S.D. Fla. 2012) (holding that a party

had the right to take a Rule 30(b)(6) deposition of the Securities and Exchange Commission, which had brought enforcement action against him); *Ghandi v. Police Dep't of City of Detroit*, 74 F.R.D. 115, 121 (E.D. Mich. 1977) (finding that the Federal Bureau of Investigation is a "government agency" within the meaning of Rule 30(b)(6)). There is thus no legal basis for excluding the Commission from the requirements of the Rule.

**II. The Matters Designated by Judge Neely for Examination are Discoverable.**

The Commission asserts, again without argument or supporting authority, that the following four topics that Judge Neely designated for examination seek information that is not discoverable under Commission Rule 22:

- (1) the specific procedures, requirements, considerations, factors, and criteria the Commission took into account when it appointed the Investigatory and Adjudicatory Panels (the fourth topic designated for examination);
- (2) the specific procedures, discussions, and considerations that led to the appointment of the members of the Investigatory and Adjudicatory panels (the sixth topic designated for examination);
- (3) the specific procedures, requirements, considerations, factors, and criteria that the Commission evaluated when deciding whether to file the Notice of Commencement of Formal Proceedings against Judge Neely (the ninth topic designated for examination); and
- (4) the history of judicial discipline recommended by the Commission and the resulting discipline handed down by the Wyoming Supreme Court in all matters since the Commission's inception (the eleventh topic designated for examination).

See Exhibit 1 to Commission's Motion for Protective Order (Judge Neely's Notice of Rule 30(b)(6) Deposition of the Commission, Schedule A, Items 4, 6, 9, and 11).

The Commission's claim that Rule 22 of the Rules Governing the Commission on Judicial Conduct and Ethics bars Judge Neely from obtaining discovery about these topics is specious. Rule 22 provides that the Commission's proceedings and related information "shall be confidential." Wy. R. J. Cond. and Ethics Comm., Rule 22(a). But that provision is clearly

intended to prevent disclosure of information to the public. This fact is apparent from the Rule's command that "[n]o member of the Commission or its staff and no employee or agent of the Commission, disciplinary counsel and disciplinary counsel's staff, no attorney, and no testifying witness shall disclose such proceeding [or related] information . . . , except in the course of official duty or as otherwise authorized by these rules." *Id.* This does not mean that information in the Commission's possession is not *discoverable*, but only that it cannot be disclosed outside of this confidential proceeding

Indeed, when the Rules do in fact limit the discoverability of certain information, they say so expressly. For example, Rule 11(i) provides that "all attorney notes or attorney work product are not discoverable." The same Rule further provides that "[a]ll communications of disciplinary counsel with an investigatory panel, including but not limited to disciplinary counsel's investigative report, shall be and remain *confidential*, and shall not be *discoverable*." Wyo. R. J. Cond. and Ethics Comm., Rule 11(i) (emphasis added). Clearly, the word "confidential" does not mean "non-discoverable." Any other interpretation would render redundant and meaningless Rule 11(i)'s provision that communications of disciplinary counsel "shall not be discoverable." *See Hede v. Gilstrap*, 107 P.3d 158, 163 (Wyo. 2005) (holding that statutory language "must be construed so that no portion is rendered meaningless") (citation omitted). Because Rule 22 does not address whether information is discoverable, the Commission's argument is baseless.

Moreover, the Commission has acknowledged by its conduct in discovery that information falling under the fourth, sixth, and ninth topics designated for examination is discoverable. Those topics relate to the appointment of the Investigatory and Adjudicative Panels and the decision to issue the Notice of Commencement of Formal Proceedings in this

proceeding. In accordance with Rule 11(i), the Commission withheld and refused to produce a recording of an Investigatory Panel meeting that occurred in the presence of disciplinary counsel. See CJCE's Privilege Log, Doc. No. 8 ("Audio recording of I-Panel Conference") (Connelly Aff., Exhibit 4). But the Commission produced recordings of two other teleconferences of the Investigatory Panel and the Commission's Executive Director that were held outside of counsel's presence. See 7/28/15 Disciplinary Counsel e-mail to Judge Neely's Counsel re: recordings of Investigatory Panel Meetings (Connelly Aff., Exhibit 5). Those recordings disclose information related to the fourth, sixth, and ninth topics designated for examination. Among other things, the recordings include an oral motion to appoint the Investigatory Panel, the reasons the Investigatory Panel believed that the investigation of Judge Neely was warranted, a discussion of whether the Investigatory Panel had probable cause to appoint an Adjudicatory Panel and commence formal proceedings, and an oral motion to convene an Adjudicatory Panel and issue a Notice of Commencement of Formal Proceedings. Through its disclosure of this information, the Commission not only has acknowledged that this information is discoverable, it has also waived any objection it might have had to Judge Neely's discovery of it. See *In re Qwest Commun. Intern. Inc.*, 450 F.3d 1179 (10th Cir. 2006) (holding that a corporation had waived attorney-client privilege and work-product-doctrine protection by producing documents in earlier investigation, and affirming a district court order compelling production).

In addition, information concerning the eleventh topic designated for examination (the history of discipline recommended by the Commission to the Wyoming Supreme Court) is not only discoverable, but is by rule public and not confidential. Rule 22(a) expressly provides that "[a] recommendation filed by the Commission with the Wyoming Supreme Court loses its

confidential character upon its filing.” Wy. R. J. Cond. and Ethics Comm., Rule 22(a). Thus, the Commission’s objection to the disclosure of that information is wholly unpersuasive.

Finally, the Commission argues that except for the tenth topic designated for examination, all the remaining topics—namely, Numbers 1, 2, 3, 5, 7, and 8—are “prescribed” by the Wyoming State Constitution, the Commission’s Rules, or the Canons of Judicial Ethics, and are somehow “not proper subjects for inquiry.” But the fact that constitutional or statutory rules address a particular subject matter does not make it off limits for discovery. For example, the Commission’s Rules set forth certain procedures and criteria for the selection of Investigatory and Adjudicatory Panels. But the Rules do not disclose how those procedures are put into practice, the existence of policies implementing the Rules, the existence of informal rules, or the application of the procedures in any particular case. This information is reasonably calculated to lead to the discovery of admissible evidence that would support Judge Neely’s affirmative defenses and is thus discoverable. *See, e.g., Detoy v. City & Cnty. of San Francisco*, 196 F.R.D. 362, 365 (N.D. Cal. 2000) (denying a motion for a protective order with respect to a Rule 30(b)(6) deposition, and compelling governmental entities to produce witnesses adequately prepared to testify regarding the entities’ training and disciplinary history). Accordingly, Judge Neely should be permitted to depose the Commission about these topics.


In sum, “[t]he burden of establishing entitlement to nondisclosure rests with the party resisting disclosure and not the party seeking it.” *Greenwood v. Wierdsma*, 741 P.2d 1079, 1089 (Wyo. 1987). For the reasons discussed above, the Commission has not established any basis for resisting discovery of the information sought in Judge Neely’s Notice. The Commission’s Motion thus lacks merit.



Conclusion

For the foregoing reasons, the Presiding Officer of the Adjudicatory Panel should deny the Commission's Motion for Protective Order. In the alternative, the Presiding Officer should schedule a telephonic hearing concerning the Commission's Motion.

Dated: August 21, 2015

  
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*Attorneys for Respondent*  
*\*Out-of-State Certification Obtained*

**CERTIFICATE OF SERVICE**

I hereby certify that on the 21st day of August, 2015, I served the foregoing Response by placing a true and correct copy thereof in the United States Mail, postage prepaid, and properly addressed to the following:

Patrick Dixon, Esq.  
Dixon & Dixon, LLP  
104 South Wolcott Street, Suite 600  
Casper, WY 82601



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Kenneth J. Connelly

**BEFORE THE COMMISSION ON JUDICIAL CONDUCT AND ETHICS  
STATE OF WYOMING**

An inquiry concerning  
The Honorable Ruth Neely  
Municipal Court Judge and  
Circuit Court Magistrate  
Ninth Judicial District  
Pinedale, Sublette County

) COMMISSION ON JUDICIAL  
) CONDUCT AND ETHICS  
)  
) **No. 2014-27**  
) COMMISSION ON JUDICIAL CONDUCT  
) AND ETHICS  
) Official Record  
) F I D  
) Date: 08/26/15  
) *Wendy J. Soto*  
) Wendy J. Soto

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**AFFIDAVIT OF KENNETH J. CONNELLY IN SUPPORT OF RESPONDENT THE  
HONORABLE RUTH NEELY'S RESPONSE TO THE COMMISSION'S  
MOTION FOR PROTECTIVE ORDER**

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I, Kenneth J. Connelly, after being duly sworn, declare the following:

1. I am one of the attorneys representing Respondent Honorable Ruth Neely ("Judge Neely") in this action. I submit this affidavit in support of Judge Neely's Response to the Commission's Motion for Protective Order.
2. Attached hereto as Exhibit 1 is a true and correct copy of the Commission on Judicial Conduct and Ethics's Answers to Judge Neely's Interrogatories, dated July 27, 2015, produced by the Commission during discovery.
3. Attached hereto as Exhibit 2 is a true and correct copy of the Notice of Commencement of Formal Proceedings brought against Judge Neely by the Commission, dated March 4, 2015.
4. Attached hereto as Exhibit 3 is a true and correct copy of Judge Neely's Verified Answer to the Commission's Notice of Commencement of Formal Proceedings, filed on April, 28, 2015.

5. Attached hereto as Exhibit 4 is a true and correct copy of the Commission on Judicial Conduct and Ethics's Privilege Log, produced by the Commission during discovery.

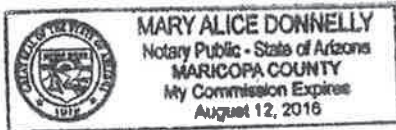
6. Attached hereto as Exhibit 5 is a true and correct copy of an e-mail from Disciplinary Counsel to Judge Neely's Counsel regarding recordings of Investigatory Panel Meetings in this matter, dated July 28, 2015, produced by the Commission during discovery.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

FURTHER, AFFIANT SAYETH NAUGHT.

  
\_\_\_\_\_  
Kenneth J. Connelly

SUBSCRIBED AND SWORN TO before me this 21<sup>st</sup> day of August, 2015, by Kenneth J. Connelly.



  
\_\_\_\_\_  
Notary Public

My commission expires: August 12, 2016

BEFORE THE COMMISSION ON JUDICIAL CONDUCT AND ETHICS

STATE OF WYOMING

An inquiry concerning	)	
The Honorable Ruth Neely	)	No. 2014-27
Municipal Court Judge and	)	
Circuit Court Magistrate	)	
Ninth Judicial District	)	
Pinedale, Sublette County	)	

**CJCE'S ANSWER TO INTERROGATORIES**

COMES NOW the Commission on Judicial Conduct and Ethics, by and through its attorney Patrick Dixon, and answers Judge Neely's Interrogatories as follows. This response is in accordance with the Wyoming Rules of Civil Procedure and the standards of practice in Wyoming, and not necessarily any instruction or definition propounded by counsel.

**GENERAL OBJECTION:** The Commission objects to the Judge's Interrogatories *in toto* on the grounds that Rule 22(a) of the Rules Governing the Commission on Judicial Conduct and Ethics provides, in material part:

*(a) Proceedings* - Unless otherwise permitted by these rules, or unless revealed in public documents or a public hearing, all proceedings before the Commission and all information, communications, materials, papers, files, and transcripts, written or oral, received or developed by the Commission in the course of its work, shall be confidential. No member of the Commission or its staff and no employee or agent of the Commission, disciplinary counsel and disciplinary counsel's staff, no attorney, and no testifying witness shall disclose such proceeding, information, communications, materials, papers, files, or transcripts, except in the course of official duty or as otherwise authorized by these rules. Any violation of the provision for confidentiality shall constitute an act of contempt and be punishable as such.

Subject to this objection, the Commission responds as follows:

**INTERROGATORY NO. 1:** Describe in detail what actions, omissions, beliefs, or statements attributable to Judge Neely justify the Commission's conclusion in

Paragraph B(2) of its Notice that "Judge Neely's stated position with respect to same sex marriage precludes her from discharging the obligations of the above-cited Canons and Rules of Judicial Conduct, not just with respect to the performance of marriage ceremonies, but with respect to her general duties as Municipal Court Judge."

**ANSWER:** The following statements made by or attributed to Judge Neely justify the allegations set forth in Paragraph B(2) of the Notice:

From the December 11, 2014 Sublette Examiner Article:

"I will not be able to do them," referring to same sex marriages.

"When law and religion conflict, choices have to be made."

From Judge Neely's February 7, 2015 response to the Commission on Judicial Conduct and Ethics:

"My conscience, formed by my religious convictions, will not allow me to solemnize the marriage of two men or two women were I ever asked to do so."

"And as I explained in my letter to the Committee, my inability to solemnize the marriage same sex unions does not arise from any prejudice or bias against people, but rather from my sincerely held religious beliefs about marriage."

"But my religious convictions will not allow me to officiate at same sex ceremonies."

*Additional Statements made to Ned Donovan and not published:*

"There's [sic] legal issues in life, and there's moral issues in life and they don't always match. So for me my moral issues supersede the legal issues and so I'm not saying it's wrong because legally it's correct, legally it's right, but morally I'm not able to."

"I am required to do them because I am a [circuit court] magistrate."

"Gently, I would like people not to know that I can't do them. I would gently direct them to Steve Smith, I would gently tell them I'm not available that day."

These statements, made both publicly and privately demonstrate a willingness on the part of Judge Neely to subordinate the law of the land to her own individual religious beliefs. Whether or not Judge Neely believes that she is prejudiced or biased against the LGBT community, these statements evidence the opposite. At a minimum, they create a perception of partiality, bias and arbitrariness.

**INTERROGATORY NO. 2:** Describe in detail how the actions, omissions, beliefs, or statements alleged in response to Interrogatory 1 constitute a violation of the Wyoming Code of Judicial Conduct Canon 1 and supply all facts in support of that conclusion.

**ANSWER:** As it applies to Judge Neely's actions and comments described in the preceding response, the key terms in Canon 1 are "impartiality" and "impropriety and the appearance of impropriety." Whether or not based upon religious convictions, Judge Neely's words and actions demonstrate a lack of impartiality toward a segment of our society. That a judicial officer would perform her duties for the benefit of one class of person and not another goes beyond the appearance of impropriety.

Judge Neely chose to make her feelings on this matter openly public in a newspaper of local circulation. A reasonable member of society could easily conclude that if Judge Neely is unwilling to recognize and accept the legally established rights of LGBT individuals as it relates to marriage, she may also be less than impartial in the application of the law and upholding the other legal rights of LGBT individuals in other proceedings before her which are unrelated to marriage. This appearance of partiality and impropriety exists even if Judge Neely elects not to perform any other judicial functions as a magistrate and carries over to her position as a municipal judge.

**INTERROGATORY NO. 3:** Describe in detail how the actions, omissions, beliefs, or statements alleged in response to Interrogatory 1 constitute a violation of the Wyoming Code of Judicial Conduct Canon 1.1 and supply all facts in support of that conclusion.

**ANSWER:** Judge Skavdahl's ruling in the United States District Court of *Guzzo v. Mead*, 2014 WL 5317797 (D.Wyo.2014), subsequently affirmed by the United States Supreme Court is that all persons, regardless of sexual orientation are entitled to the same right to be married. The Commission understands that Judge Neely's sole reason for appointment as Circuit Court Magistrate is to perform marriage ceremonies. The fact that Judge Neely is unwilling to perform ceremonies for one class of individuals while remaining willing to perform marriage ceremonies for another class demonstrates a selective application or interpretation of the law. Moreover Rule 2.3 prohibits a Judge in the performance of her judicial duties from manifesting a bias or prejudice based upon sexual orientation. This Rule makes no exception for members of the Missouri Synod of the Lutheran church. Judge Neely's words and actions clearly demonstrate bias or prejudice towards members of the LGBT community.

As previously stated, reasonable members of society can conclude that if Judge Neely is unwilling to recognize and accept the established legal rights of LGBT individuals as it relates to marriage, she may also less than impartial in the application of the law and upholding the other legal rights of LGBT individuals in other proceedings before her which are unrelated to marriage, including her rulings and application of the law in her position as a municipal judge.

**INTERROGATORY NO. 4:** Describe in detail how the actions, omissions, beliefs, or statements alleged in response to Interrogatory 1 constitute a violation of the Wyoming Code of Judicial Conduct Canon 1.2 and supply all facts in support of that conclusion.



**ANSWER:** See the Commission's answer to the preceding interrogatories. Rule 1.2 is an amplification of Canon 1.

**INTERROGATORY NO. 5:** Describe in detail how the actions, omissions, beliefs, or statements alleged in response to Interrogatory 1 constitute a violation of the Wyoming Code of Judicial Conduct Canon 2 and supply all facts in support of that conclusion.

**ANSWER:** See the Commission's answer to the preceding interrogatories. Again, the key term in Canon 2, as applied here is impartiality. Judge Neely's statements demonstrate a lack of impartiality toward the LGBT community. Rule 2.1 dictates that a judge's personal and extrajudicial activities subordinate to her judicial duties. In this case Judge Neely has given precedence to her religious beliefs.

**INTERROGATORY NO. 6:** Describe in detail how the actions, omissions, beliefs, or statements alleged in response to Interrogatory 1 constitute a violation of the Wyoming Code of Judicial Conduct Canon 2.2 and supply all facts in support of that conclusion.

**ANSWER:** See the Commission's answer to the preceding interrogatories. This Rule speaks to the performance of "all duties" not just those the Judge elects to or feels comfortable in performing.

**INTERROGATORY NO. 7:** Describe in detail how the actions, omissions, beliefs, or statements alleged in response to Interrogatory 1 constitute a violation of the Wyoming Code of Judicial Conduct Canon 2.3 and supply all facts in support of that conclusion.

**ANSWER:** See the Commission's answer to the preceding interrogatories. Rule 2.3(c) specifically prohibits a judge from showing bias or prejudice based upon sexual orientation.

**INTERROGATORY NO. 8:** Identify each form of discipline that the Commission plans to seek or believes is warranted by the allegations in the Notice or in response to Interrogatories Nos. 1 through 7, and for each form of discipline identified, state the basis for the Commission's belief that it is warranted in this proceeding.

**ANSWER:** The Investigatory Panel of the Commission has made no decision with respect to the appropriate form of discipline. That is the function of the Adjudicatory Panel and after a finding of misconduct, by the full Commission. However, the Investigatory Panel has authorized counsel to enter into a stipulated disciplinary agreement whereby Judge Neely resigns from all judicial offices. This proposal has been rejected by Judge Neely. In the meantime, counsel for the Commission will recommend to the Adjudicatory Panel, if a finding of misconduct is made, that findings and recommendations be forwarded to the Wyoming Supreme Court calling for a public censure and removal from all judicial offices. Counsel believes that this recommendation is warranted because (1) Judge Neely's words and actions demonstrate an unwillingness to perform her duties impartially, (2) a willingness to disregard the rulings of a higher court, (3) bias or prejudice against a class of individuals, (4) because of the public nature of Judge Neely's comments, and (5) because Judge Neely had been specifically directed by her supervising Judge that her opinions were not judicially appropriate and not to make them known publicly. In this regard, factors (C), (D), (E) and (F), as set forth in Rule 8(d)(2) are implicated.

**INTERROGATORY NO. 9:** Identify the members of the Investigatory Panel in this proceeding.

**ANSWER:** The members of the Investigatory Panel are as follows: Kerstin Connolly, Presiding Officer, Karen Hayes, Leslie Petersen, Jay Gilbertz and the Honorable Wade E. Waldrip. When the matter initiated, Julie Tiedeken was a member of the Investigatory Panel. However, her term expired in March, 2015 and she was replaced by Mr. Gilbertz.

**INTERROGATORY NO. 10:** Identify and describe in detail all government interests that would be served by removing Judge Neely from her circuit magistrate position, as sought by the Commission in this proceeding, and explain in detail how removing Judge Neely from that position would serve each identified government interest.

**ANSWER:** The public interests to be served are clearly outlined by the Canons of Judicial Ethics, and following Rules as outlined in Paragraph B.1 of the Notice. The comments to each respective Canon or Rule amplify the public interests and are incorporated herein. Counsel believes, and will argue to the Adjudicatory Panel that any sanction that does not include complete removal from judicial office will have the effect of condoning Judge Neely's words and conduct, and will cast the Wyoming judiciary and judicial disciplinary system in disrepute will tarnish the reputation of the State of Wyoming as the Equality State.

There is a compelling state and societal interest in a fair and impartial judiciary that applies and honors the Rule of Law which affords all members of society, regardless of standing or condition the same application of law as other members of society. This is a foundation of the legal system of the United States of America and the State of Wyoming. This interest is embodied by the Cannons of Judicial Conduct which require impartiality and prohibit bias both in fact and by conduct that lends itself to the appearance of partiality or bias.

**INTERROGATORY NO. 11:** Identify and describe in detail all government interests that would be served by removing Judge Neely from her municipal town judge position, as sought by the Commission in this proceeding, and explain in detail how removing Judge Neely from that position would serve each identified government interest.

**ANSWER:** See the Commission's answer to the preceding interrogatories. Having publicly stated a discriminatory attitude toward the LGBT community, it appears that Judge Neely cannot impartially pass judgment on civil or criminal matters that come before her on the Municipal Bench. Whether or not that is, in fact true, that will certainly be the perception held by a portion of society as a result of Judge Neely's publicly expressed position on these issues.

**INTERROGATORY NO. 12:** Identify by name, address, and telephone number all persons with knowledge of any facts asserted in the Notice and all persons likely to have discoverable information about those facts, and with respect to each identified person, describe the facts or subjects of which he or she has, or likely has, knowledge.

**ANSWER:** In addition to those persons identified in the Commission's Rule 11 disclosure statement, the following persons have knowledge and/or discoverable information:

Please see the Commission's Rule 11 Disclosures and Supplemental Disclosures.

**INTERROGATORY NO. 13:** Identify by name, address, and telephone number all persons with whom the Commission or any of its representatives or agents have

communicated about the subject matter of this proceeding or the allegations in the Notice; for each person identified, provide the date of each communication with that person, the identify of all persons involved in each referenced communication, the place and mode of each referenced communication, and a summary of the information communicated.

**ANSWER:** This interrogatory is objected to as calling for the disclosure of attorney work product. Without waiving the objection, the Commission's Executive Director, Wendy Soto, communicated with Ana Cuprill at a Christmas party in mid-December regarding the newspaper articles in Sublette County. The Commission has communicated in writing with Judge Neely and Judge Haws, which written communications are produced in response to Request for Production of Documents. Some time around March 1, Ms. Soto spoke by phone with Kurt Twitty, an investigator with the Washington Commission. She did not discuss the instant complaint but asked for general information on the ethical implications of same sex marriage. Any other communication with any witness or potential witness has been oral, done by counsel, or by Ms. Soto at the direction of counsel. The Commission objects to the disclosure of the latter communications on the grounds of attorney work product.

**INTERROGATORY NO. 14:** Describe in detail how the Commission learned about the conversation between Ned Donovan and Judge Neely that is referenced in Paragraphs A(4) and (5) of the Notice; as part of that description, include the date on which the Commission's representatives or agents first became aware of that conversation, and identify the source of that information.

**ANSWER:** Some time between December 11, 2014 and December 22, 2014, Wendy Soto hosted a Christmas party at her home. Ana Cuprill was a guest at the party.

During conversation, Ms. Cuprill informed Ms. Soto of the newspaper articles which had appeared in Sublette County and expressed or intimated her belief that this was improper on the part of a judicial officer. Ms. Soto then requested that Ms. Cuprill document the conversation at the Christmas party with an email, which email has been produced in response to Request for Production of Documents. The email attached one of the newspaper articles. Thereafter, of course, the Commission made inquiries to both Judge Neely and Judge Haws.

**INTERROGATORY NO. 15:** Describe in detail the contents of all communications between any of the Commission's representatives or agents and Ned Donovan or any other individual alleged to have knowledge of the conversation between Ned Donovan and Judge Neely that is referenced in Paragraphs A(4) and (5) of the Notice, identify all persons involved in those communications, and provide the place and mode of those communications.

**ANSWER:** This is objected to as calling for attorney work product. Without waiving the objection, Judge Neely is directed to the Commission's Supplemental Rule 11 Disclosures and response to Request for Production No. 5.

**INTERROGATORY NO. 16:** Identify and describe in detail every instance since the ruling in *Guzzo v. Mead*, 2014 WL 5317797 (D.Wyo.2014), when a same-sex couple in Wyoming could not access a state judge, judicial official, or magistrate willing to perform their wedding ceremony.

**ANSWER:** This interrogatory is objected to as not being reasonably calculated to lead to the discovery of admissible evidence. Without waiving the objection, the

Commission has no information one way or the other whether a same sex couple has been unable to access an official to perform a wedding ceremony.

**INTERROGATORY NO. 17:** Identify and describe in detail all complaints alleging sexual-orientation discrimination that have been filed with the Commission; include in that description an explanation of the allegations, the investigation, and the final disposition by the Commission or the Wyoming Supreme Court.

**ANSWER:** This interrogatory is objected to as calling for confidential information, as being unduly burdensome and oppressive, and as not being reasonably calculated to lead to the discovery of admissible evidence. Without waiving the objection, there have been no such complaints since June 1, 2012. It is conceivable that such complaints have been made in the past, however, it would be unreasonably burdensome to require the Commission to review every record generated since its inception in order to respond to this Interrogatory, particularly where the Commission would be precluded from responding per Rule 22.

**INTERROGATORY NO. 18:** Identify all persons that the Commission anticipates calling as a witness in the hearing in this proceeding, and provide a summary of each person's anticipated testimony.

**ANSWER:** No determination has been made as to who will be called as a witness. Counsel should anticipate that any individual disclosed in the Commission's Rule 11 disclosures, or in response to these Interrogatories may be called as a witness.

**INTERROGATORY NO. 19:** Identify every person consulted concerning the preparation of answers to these Interrogatories and the accompanying Request for

Production of Documents and Requests for Admission; for each person identified, describe his or her relationship to the Commission and the subject matter of the communication.

**ANSWER:** In addition to counsel and his staff, Wendy Soto, Kerstin Connolly, presiding officer of the I-Panel and Jay Gilbertz, panel member assisted in the preparation of these answers.

**INTERROGATORY NO. 20:** For each Request for Admission that is denied, describe in detail the reason for the denial and all facts and details supporting the denial.

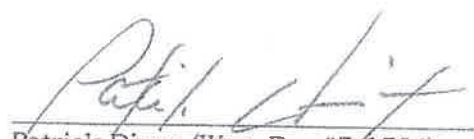
**ANSWER:** Please see each specific response to the Requests for Admission.

**INTERROGATORY NO. 21:** Identify and describe each and every fact that the Commission believes tends to refute or undermine the responses or affirmative defenses in Judge Neely's Answer.

**ANSWER:** Please see the Commission's response to Interrogatories 1-7. The Canons of Judicial Ethics make no exception or exemption for members of the Missouri Synod of the Lutheran Church, or any other religious faith for that matter. Neither is counsel aware of any legal ruling that holds that a judicial officer's constitutional rights trump her obligation to perform her official duties impartially, apply the law of the jurisdiction and refrain from discriminatory actions or conduct directed at a class of individuals.



DATED this 27 day of July, 2015.

  
Patrick Dixon (Wyo. Bar #5-1504)  
104 S. Wolcott, Suite 600  
Casper, Wyoming 82601  
(307) 234-7321  
(307) 234-0677 (facsimile)  
Disciplinary Counsel

**VERIFICATION**

STATE OF WYOMING     )  
                                  ) ss.  
COUNTY OF SHERIDAN )

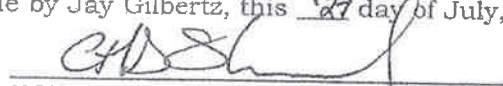
I, Jay Gilbertz, as the acting Presiding Officer of the I-Panel of the Commission of Judicial Conduct and Ethics, being first duly sworn upon oath, state that I have read the foregoing Answers to Interrogatories and that the statements contained therein are true to the best of my information, knowledge and belief.

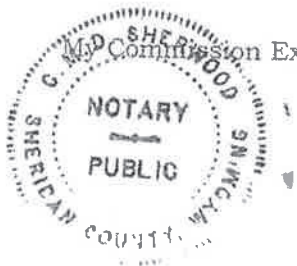
Dated this 27<sup>th</sup> day of July, 2015.

  
Jay Gilbertz

SUBSCRIBED and SWORN to before me by Jay Gilbertz, this 27<sup>th</sup> day of July, 2015.

March 20, 2019

  
NOTARY PUBLIC

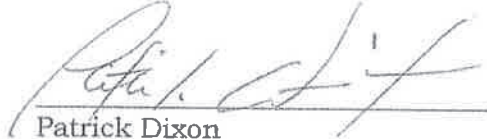


**CERTIFICATE OF SERVICE**

I, Patrick Dixon, do hereby certify that on the 27 day of July, 2015, I served the above and foregoing **CJCE's Answer to Interrogatories** by placing a true and correct copy in the United States mail, duly postmarked and addressed to:

Herbert K. Doby  
Attorney at Law  
P.O. Box 130  
Torrington, Wyoming 82240

James A. Campbell  
Kenneth J. Connelly  
Douglas G. Wardlow  
Alliance Defending Freedom  
15100 N. 90<sup>th</sup> Street  
Scottsdale, Arizona 85260

  
Patrick Dixon

# EXHIBIT

# 2

BEFORE THE COMMISSION ON JUDICIAL CONDUCT AND ETHICS

STATE OF WYOMING

An inquiry concerning	)		COMMISSION ON JUDICIAL CONDUCT
	)		AND ETHICS
The Honorable Ruth Neely	)	No. 2014-27	Official Record
	)		FILED
Municipal Court Judge and	)		Date: <i>March 4, 2015</i>
Circuit Court Magistrate	)		<i>Wendy J. Soto</i>
Ninth Judicial District	)		Wendy J. Soto
Pinedale, Sublette County	)		

---

**NOTICE OF COMMENCEMENT OF FORMAL PROCEEDINGS**

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To: Honorable Ruth Neely  
Municipal Court Judge  
City of Pinedale  
P.O. Box 1386  
Pinedale, Wyoming 82941

WHEREAS, this matter came before the Investigatory Panel on its own motion pursuant to Rule 7(b) of the Rules Governing the Commission on Judicial Conduct and Ethics, and based on a newspaper article published in the Sublette Examiner quoting Judge Neely;

WHEREAS, said own motion matter was reviewed by the Investigatory Panel; and

WHEREAS, an inquiry was made with Judge Neely regarding this matter at which time Judge Neely was provided with a copy of the newspaper article; and

WHEREAS, the Investigatory Panel determined that there is reasonable cause to believe Judge Neely engaged in judicial misconduct; and

WHEREAS, the Investigatory Panel has referred the matter to an Adjudicatory Panel of the CJCE for the institution of formal proceedings in accordance with Rule 8(g) of the Rules Governing the Commission on Judicial Conduct and Ethics.

NOTICE IS HEREBY GIVEN pursuant to Rule 8(a) of the Rules Governing the Commission on Judicial Conduct and Ethics that Disciplinary Counsel's Investigation of said verified complaint would appear to establish the following:

A. *Factual Background.*

1. Judge Ruth Neely is a Municipal Court Judge, presiding over the Municipal Court of the Town of Pinedale, Wyoming. Judge Neely holds her position pursuant to the provisions of Wyoming Statutes § 5-6-101, *et seq.*, and Chapter 23 of the Municipal Code of the Town of Pinedale. Judge Neely has served as a Municipal Judge for approximately 21 years.

2. In 2001 Judge Neely was appointed Magistrate by then Circuit Court Judge John Crow. The purpose of this appointment was to confer authority upon Judge Neely to perform marriage ceremonies in accordance with Wyoming Statute § 20-1-106. Upon his appointment to the bench, Circuit Court Judge Curt A. Haws continued Judge Neely's appointment in the same capacity. Since her appointment in 2001, Judge Neely has performed numerous civil marriage ceremonies in her capacity as Circuit Court Magistrate.

3. On October 17, 2014, in the case of *Guzzo v. Mead*, 2014 WL 5317797 (D.Wyo.2014), the United States District Court for the District of

Wyoming, following established Tenth Circuit Court of Appeals precedence, determined that same sex couples enjoyed the same constitutional right to participate in civil marriage as heterosexual couples. Judge Skavdahl's ruling was not appealed and became the law of the state of Wyoming the following Monday, October 20, 2014.

4. Sometime during the week of December 8, 2014, Judge Neely was contacted by Ned Donovan, a reporter for the local papers in Sublette County, Wyoming. Judge Neely participated in an interview, or at least a conversation with Donovan on the subject of same sex marriage. During the course of the conversation or the interview, Judge Neely informed Donovan that she would be unable to perform same sex marriages as a result of her religious beliefs. Judge Neely was quoted by Donovan as saying "When law and religion conflict, choices have to be made. I have not yet been asked to perform a same sex marriage."

5. The substance of Judge Neely's conversation or interview with Donovan, including the quoted language appeared in the Sublette Examiner on December 11, 2014 and may have appeared in other local publications in that timeframe.

6. As a result of these publications and conversations with Judge Neely, Judge Haws suspended Judge Neely's authority to perform marriage ceremonies on or about January 15, 2015.

7. In the meantime, Judge Neely, with the advice of Judge Haws, voluntarily refrained from performing marriage ceremonies for any couples,

heterosexual or otherwise, and the last marriage ceremony performed by Judge Neely occurred on December 13, 2014.

8. In response to inquiries from this Commission, Judge Neely has admitted to making the comments attributed to her in the newspaper article and has reiterated her position with respect to same sex marriages, citing her religious beliefs and her First Amendment rights, presumably to the free exercise of religion.

B. *Code of Judicial Conduct.*

1. The following provisions of the Wyoming Code of Judicial Conduct are implicated by the facts recited above:

**Canon 1. A Judge Shall Uphold the Integrity and Independence of the Judiciary.**

A judge shall uphold and promote the independence, integrity and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety.

**Rule 1.1. Compliance with the Law.**

A judge shall comply with the law, including the Code of Judicial Conduct.

**Rule 1.2. Promoting Confidence in the Judiciary.**

A judge shall act at all times in a manner that promotes public confidence in the independence, integrity and impartiality of the judiciary and shall avoid impropriety and the appearance of impropriety.

**Canon 2. A judge shall perform the duties of judicial office.**

A judge shall perform the duties of judicial office impartially, competently, and diligently.

**Rule 2.2. Impartiality and Fairness.**

A judge shall uphold and apply the law, and shall perform all duties of judicial office fairly and impartially.

**Rule 2.3. Bias, Prejudice and Harassment.**

(A) A judge shall perform the duties of judicial office, including administrative duties without bias or prejudice.

(B) A judge shall not, in the performance of judicial duties, by words or conduct manifest bias or prejudice, or engage in harassment, including but not limited to bias, prejudice or harassment based upon race, sex, gender, religion, national origin, ethnicity, disability, age, *sexual orientation*, marital status, socioeconomic status, or political affiliation, and shall not prevent court staff, court officials, or others subject to the judge's direction and control to do so. (Emphasis added.)

2. Judge Neely's stated position with respect to same sex marriage precludes her from discharging the obligations of the above-cited Canons and Rules of Judicial Conduct, not just with respect to the performance of marriage ceremonies, but with respect to her general duties as Municipal Court Judge.

C. *Notification of Members of Adjudicatory Panel.*

1. The following are members of the Adjudicatory Panel: Mel Orchard, Presiding Officer, Honorable Wendy Bartlett and Barbara Dilts.

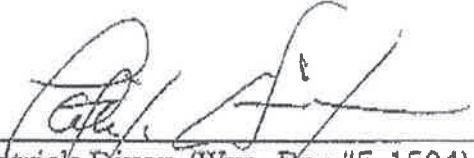
D. *Advisement.*

1. Pursuant to Rule 8(b) of the Rules Governing the Commission on Judicial Conduct and Ethics, Judge Neely is hereby advised that she shall have twenty (20) days from the date of service of the instant *Notice of Commencement of Formal Proceedings* within which to file a written, verified answer to the



allegations above made. Her response, if any, should be served on the undersigned counsel for the CJCE.

DATED this 4<sup>th</sup> day of March, 2015.



---

Patrick Dixon (Wyo. Bar #5-1504)  
104 S. Wolcott, Suite 600  
Casper, Wyoming 82601  
(307) 234-7321  
(307) 234-0677 (facsimile)  
Disciplinary Counsel

**CERTIFICATE OF SERVICE**

I hereby certify that on the 4<sup>th</sup> day of March, 2015, I served the foregoing **NOTICE OF COMMENCEMENT OF FORMAL PROCEEDINGS** by placing a true and correct copy thereof in the United States Mail, certified mail, postage prepaid, and properly addressed to the following:

Hon. Ruth Neely  
Municipal Court Judge  
City of Pinedale  
PO Box 1386  
Pinedale WY 82941

Patrick Dixon, Esq., Chair  
Dixon & Dixon, LLP  
104 South Wolcott Street, Suite 600  
Casper, WY 82601



Wendy J. Soto  
Executive Director  
Commission on Judicial Conduct & Ethics  
P.O. Box 2645  
Cheyenne, WY 82003  
Phone: (307) 778-7792

# EXHIBIT

# 3

BEFORE THE COMMISSION ON JUDICIAL CONDUCT AND ETHICS  
STATE OF WYOMING

An inquiry concerning	)	COMMISSION ON JUDICIAL
	)	CONDUCT AND ETHICS
The Honorable Ruth Neely	)	
	)	No. 2014-27
Municipal Court Judge and	)	
Circuit Court Magistrate	)	COMMISSION ON JUDICIAL CONDUCT
Ninth Judicial District	)	AND ETHICS
Pinedale, Sublette County	)	Official Record
	)	FILED
		Date: 4/28/15
		<i>Wendy J. Soto</i>
		Wendy J. Soto

VERIFIED ANSWER

The Honorable Ruth Neely, Respondent, for her Verified Answer to the Notice of Commencement of Formal Proceedings (the "Notice") filed by the Commission on Judicial Conduct and Ethics (the "Commission"), states and alleges as follows:

1. Except as expressly admitted or otherwise specifically pleaded herein, Respondent denies each and every allegation in the Notice and puts the Commission to its strict proof thereof.
2. Respondent admits the allegations contained in Section A, Paragraph 1 of the Notice.
3. With respect to the allegations contained in Section A, Paragraph 2 of the Notice:
  - a. Respondent admits that former Circuit Court Judge John Crow appointed her as a Circuit Court Magistrate with the authority to perform marriages;
  - b. Respondent admits that, upon his appointment to the bench, Circuit Court Judge Curt A. Haws appointed Respondent as a Circuit Court Magistrate;

- c. Respondent admits that since her initial appointment in or around 2001, she has performed numerous civil marriage ceremonies as a Circuit Court Magistrate; and
  - d. Respondent denies each and every remaining allegation contained in Section A, Paragraph 2.
4. With respect to the allegations contained in Section A, Paragraph 3 of the Notice:
    - a. Respondent states that the case of *Guzzo v. Mead*, 2014 WL 5317797 (D. Wyo. 2014), speaks for itself; and
    - b. Respondent states that the remaining allegations contained in Section A, Paragraph 3 do not call for a response, but to the extent that a response is deemed necessary, Respondent denies those allegations in their entirety.
  5. With respect to the allegations contained in Section A, Paragraph 4 of the Notice:
    - a. Respondent admits that she was contacted by reporter Ned Donovan in December 2014;
    - b. Respondent admits that Ned Donovan made inquiries of her regarding the topic of same-sex marriage;
    - c. Respondent admits that she informed Ned Donovan that solemnizing same-sex marriages would violate her religious beliefs;
    - d. Respondent admits that she was quoted by Ned Donovan as saying: "When law and religion conflict, choices have to be made. I have not yet been asked to perform a same sex marriage"; and
    - e. Respondent denies each and every remaining allegation contained in Section A, Paragraph 4.
  6. With respect to the allegations contained in Section A, Paragraph 5 of the Notice:

- a. Respondent admits that an article authored by Ned Donovan appeared in the Sublette Examiner on December 11, 2014;
  - b. Respondent admits that the article included the language that is quoted in Section A, Paragraph 4 of the Notice;
  - c. Respondent admits that similar reports may have appeared in other local publications; and
  - d. Respondent is without sufficient information to respond to the remaining allegations contained in Section A, Paragraph 5 of the Notice and therefore denies those allegations.
7. With respect to the allegations contained in Section A, Paragraph 6 of the Notice:
- a. Respondent admits that on or about January 15, 2015, Judge Haws suspended her from performing marriage ceremonies; and
  - b. Respondent denies each and every remaining allegation contained in Section A, Paragraph 6.
8. With respect to the allegations contained in Section A, Paragraph 7 of the Notice:
- a. Respondent admits that she voluntarily refrained from performing marriage ceremonies before Judge Haws suspended her from performing them;
  - b. Respondent states that the last marriage ceremony she performed occurred on December 31, 2014; and
  - c. Respondent denies each and every remaining allegation contained in Section A, Paragraph 7.
9. With respect to the allegations contained in Section A, Paragraph 8 of the Notice:

- a. Respondent admits that, in response to an inquiry from the Commission, she cited her First Amendment rights and reiterated that solemnizing same-sex marriages would violate her religious beliefs; and
  - b. Respondent denies each and every remaining allegation contained in Section A, Paragraph 8.
10. Respondent denies each and every allegation contained in Section B, Paragraph 1 of the Notice.
  11. Respondent denies each and every allegation contained in Section B, Paragraph 2 of the Notice.
  12. Section C, Paragraph 1 of the Notice does not call for a response.
  13. Section D, Paragraph 1 of the Notice does not call for a response.

#### First Affirmative Defense

The Notice fails to state a claim upon which relief can be granted.

#### Second Affirmative Defense

Applying the provisions of the Wyoming Code of Judicial Conduct that the Commission cites in Section B, Paragraph 1 of the Notice would, under these circumstances, violate Respondent's freedom-of-expression rights protected by the First Amendment to the United States Constitution.

#### Third Affirmative Defense

Applying the provisions of the Wyoming Code of Judicial Conduct that the Commission cites in Section B, Paragraph 1 of the Notice would, under these circumstances, violate Respondent's freedom-of-expression rights protected by Article 1, Section 20 of the Wyoming Constitution.

**Fourth Affirmative Defense**

Applying the provisions of the Wyoming Code of Judicial Conduct that the Commission cites in Section B, Paragraph 1 of the Notice would, under these circumstances, violate Respondent's right to the free exercise of religion protected by the First Amendment to the United States Constitution.

**Fifth Affirmative Defense**

Applying the provisions of the Wyoming Code of Judicial Conduct that the Commission cites in Section B, Paragraph 1 of the Notice would, under these circumstances, violate Respondent's right to the free exercise of religion protected by Article 1, Section 18 and Article 21, Section 25 of the Wyoming Constitution.

**Sixth Affirmative Defense**

Applying the provisions of the Wyoming Code of Judicial Conduct that the Commission cites in Section B, Paragraph 1 of the Notice would, under these circumstances, constitute a religious test in violation of Article VI, Clause 3 of the United States Constitution.

**Seventh Affirmative Defense**

Applying the provisions of the Wyoming Code of Judicial Conduct that the Commission cites in Section B, Paragraph 1 of the Notice would, under these circumstances, constitute a religious test in violation of Article 1, Section 18 and Article 21, Section 25 of the Wyoming Constitution.

**Eighth Affirmative Defense**

The provisions of the Wyoming Code of Judicial Conduct that the Commission cites in Section B, Paragraph 1 of the Notice are vague and overbroad in violation of the First Amendment and the Fourteenth Amendment to the United States Constitution.



**Ninth Affirmative Defense**

The provisions of the Wyoming Code of Judicial Conduct that the Commission cites in Section B, Paragraph 1 of the Notice are vague and overbroad in violation of Article 1, Sections 6, 7, and 20 of the Wyoming Constitution.

**Tenth Affirmative Defense**

Applying the provisions of the Wyoming Code of Judicial Conduct that the Commission cites in Section B, Paragraph 1 of the Notice would, under these circumstances, violate Respondent's right to equal protection of the law under the Fourteenth Amendment to the United States Constitution.

**Eleventh Affirmative Defense**

Applying the provisions of the Wyoming Code of Judicial Conduct that the Commission cites in Section B, Paragraph 1 of the Notice would, under these circumstances, violate Respondent's right to equal protection of the law under Article 1, Sections 2, 3, and 34 of the Wyoming Constitution.

**Twelfth Affirmative Defense**

Applying the provisions of the Wyoming Code of Judicial Conduct that the Commission cites in Section B, Paragraph 1 of the Notice would, under these circumstances, violate the Establishment Clause of the First Amendment to the United States Constitution.

**Thirteenth Affirmative Defense**

Applying the provisions of the Wyoming Code of Judicial Conduct that the Commission cites in Section B, Paragraph 1 of the Notice would, under these circumstances, violate the state constitutional provisions that address the establishment of religion, including Article 1, Section 18 and Article 21, Section 25 of the Wyoming Constitution.

DATED this 27th day of April, 2015.

Respectfully Submitted,

By:



Herbert K. Doby  
WSB # 5-2252  
P.O. Box 130  
Torrington, WY 82240  
dobykaw@embarqmail.com  
(307) 532-2700 Fax: (307) 532-2706

James A. Campbell\*  
Kenneth J. Connelly\*  
Douglas G. Wardlow\*  
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kconnelly@alliancedefendingfreedom.org  
dwardlow@alliancedefendingfreedom.org  
(480) 444-0020 Fax: (480) 444-0028

*Attorneys for Respondent*

*\*Pro Hac Vice Applications concurrently  
filed*

VERIFICATION OF ANSWER

I, Ruth Neely, the undersigned, do hereby swear and affirm, under penalty of perjury, that the information contained in my Verified Answer to the Notice of Commencement of Formal Proceedings of the Commission on Judicial Conduct and Ethics is true and accurate.

Dated this 24th day of April, 2015.

Ruth Neely
Signature

INSTRUCTIONS TO NOTARY

This form must be the product of an oath, not merely an acknowledgment. Before the verification is signed you must:

- 1. Place the affiant under oath;
2. Ensure that the affiant understands that all assertions are sworn to as accurate and that the affiant is subject to the penalty of perjury for any false statement; and
3. Have the verification signed in your presence.

STATE OF WYOMING )
COUNTY OF Sublette ) ss

Subscribed and sworn to me this 24 day of April, 2015.

By Ruth Neely

[Signature]
Notary Public



My Commission Expires: 12-8-18

**CERTIFICATE OF SERVICE**

I hereby certify that on the 27th day of April, 2015, I served the foregoing Verified Answer by placing a true and correct copy thereof in the United States Mail, postage prepaid, and properly addressed to the following:

Wendy J. Soto  
Executive Director  
Commission on Judicial Conduct & Ethics  
P.O. Box 2645  
Cheyenne, WY 82003

Patrick Dixon, Esq.  
Dixon & Dixon, LLP  
104 South Wolcott Street, Suite 600  
Casper, WY 82601

  
Herbert K. Doby

# EXHIBIT

# 4

BEFORE THE COMMISSION ON JUDICIAL CONDUCT AND ETHICS

STATE OF WYOMING

An inquiry concerning

The Honorable Ruth Neely

Municipal Court Judge and  
Circuit Court Magistrate  
Ninth Judicial District  
Pinedale, Sublette County

No. 2014-27

**CJCE'S PRIVILEGE LOG**

<b>Doc. No.</b>	<b>Description</b>	<b>Pages</b>
1	2/23/15 Letter Connolly to Dixon with contract for legal services	4
2	2/24/15 Email chain Dixon/Soto	2
3	2/26/15 Faxed note Dixon to Soto with Draft Notice	6
4	3/9/15 Dixon memo to Connolly re settlement discussions	1
5	3/10/15 Soto email to Dixon	1
6	3/9/15 Contract for Legal Services	2
7	3/10/15 notes on I-Panel conference call in presence of legal counsel to discuss settlement	3
8	Audio recording of I-Panel Conference	
9	4/9/15 letter Dixon to Soto	3
10	6/30/15 letter Dixon to Soto	11

# EXHIBIT

5

**From:** [pdixn@aol.com](mailto:pdixn@aol.com)  
**To:** [dobyrlaw@embarqmail.com](mailto:dobyrlaw@embarqmail.com); [Doug Wardlaw](#); [Jim Campbell](#); [Ken Connelly](#); [Mary Alice Donnelly](#)  
**Cc:** [wendy.soto@wyoboards.gov](mailto:wendy.soto@wyoboards.gov)  
**Subject:** Fwd: Recordings  
**Date:** Tuesday, July 28, 2015 1:49:15 PM  
**Attachments:** [2014-27NeelyIpanel1.6.15.DS2](#)  
[2014-27NeelyIPanel2.18.15.DS2](#)

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Counsel,

Yesterday, We served, the old fashioned way, responses to your discovery. Attached to this email from Ms. Soto are the audio recordings of the two, non- privileged I-panel meetings per your request. If you have any problems downloading or opening them, let me know and we will figure out something else. pat dixon

---

From: [wendy.soto@wyoboards.gov](mailto:wendy.soto@wyoboards.gov)  
To: [pdixn@aol.com](mailto:pdixn@aol.com)  
Sent: 7/16/2015 4:19:06 P.M. Mountain Daylight Time  
Subj: Recordings

Pat,

Attached you will find the recordings of the I panel meetings in 2014-27.

Wendy J. Soto  
Executive Director  
Commission on Judicial Conduct and Ethics  
PO Box 2645  
Cheyenne WY 82003  
Telephone 307-778-7792  
Cell 307-421-3247  
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<http://judicialconduct.wyo.gov>

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