

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 Official Record  
FILED  
Date: 10/9/15  
Wendy J. Soto

**NOTICE OF OPPOSITION TO MOTION TO CONTINUE**

COMES NOW the Commission on Judicial Conduct and Ethics, by and through its attorney Patrick Dixon and hereby gives notice of its opposition to Judge Neely's NOTICE OF MOTION AND MOTION TO CONTINUE HEARING.

This opposition is for the following reasons:

1. The matter is currently scheduled for hearing on December 3, 2015. The hearing date was established by HEARING ORDER dated June 19, 2015. The conduct which gives rise to the Commission's NOTICE OF COMMENCEMENT OF FORMAL PROCEEDINGS occurred on or about December 11, 2014. Thus, even if the hearing proceeds as scheduled it will take at least a year after the alleged violations have occurred for the Commission to take formal action. Because of the highly public nature of the alleged ethical violations, the Commission has a compelling interest in achieving resolution of the matter as soon as reasonably possible.

2. The HEARING ORDER which established the hearing date also established a briefing and discovery schedule. Counsel for Judge Neely, like counsel for the Commission, were given a full and complete opportunity to

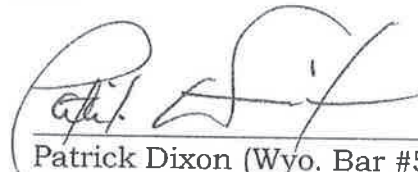
provide input on the schedule. Had counsel for Judge Neely believed that the date established for the filing of dispositive motions did not leave adequate time prior to the hearing, counsel should have raised that concern at the time of the scheduling conference.

3. Again, counsel for Judge Neely have known of the date for filing of motions since at least June 19, 2015. Nothing in the order precludes counsel from filing their motions prior to October 30, 2015.

4. A continuance of the hearing date will inconvenience the A-panel members and unreasonably delay the proceedings.

WHEREFORE the Commission requests that the MOTION TO CONTINUE HEARING be denied and that the matter proceed to hearing as scheduled.

DATED this 9 day of October, 2015.



Patrick Dixon (Wyo. Bar #5-1504)  
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(307) 234-7321  
(307) 234-0677 (facsimile)  
Disciplinary Counsel

**CERTIFICATE OF SERVICE**

I, Patrick Dixon, do hereby certify that on the 9 day of October, 2015, I served the above and foregoing ***Notice of Opposition to Motion to Continue*** via email or U.S. mail, postage prepaid, as noted below:

**VIA EMAIL**

**dobylaw@embarqmail.com**

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

**VIA EMAIL kconnelly@adflegal.org**

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

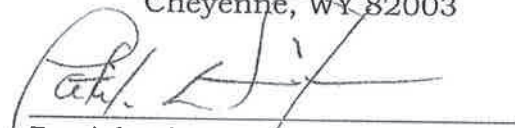
**VIA EMAIL**

**orchard@spencelawyers.com**

Melvin C. Orchard, III  
Presiding Officer/Hearing Officer  
The Spence Law Firm, LLC  
Spence & McCalla  
P.O. Box 548  
Jackson, Wyoming 83001-0548

**VIA U.S. MAIL**

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

  
Patrick Dixon

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STATE OF WYOMING**

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The Honorable Ruth Neely  
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**VERIFIED AMENDED ANSWER TO NOTICE OF  
COMMENCEMENT OF FORMAL PROCEEDINGS**

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The Honorable Ruth Neely, Respondent, for her Verified Amended 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 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 of the Notice would, under these circumstances, violate Respondent's freedom-of-expression rights protected by Article 1, Sections 20 and 21 of the Wyoming Constitution.

**Fourth Affirmative Defense**

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

#### **Thirteen Affirmative Defense**

Applying the provisions of the Wyoming Code of Judicial Conduct that the Commission cites in Section B 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.

**Fourteenth Affirmative Defense**

These proceedings and the Rules Governing the Commission violate Respondent's right to due process protected by the Fourteenth Amendment to the United States Constitution.

**Fifteenth Affirmative Defense**

These proceedings and the Rules Governing the Commission violate Respondent's right to due process protected by Article 1, Sections 6 and 7 of the Wyoming Constitution.

**Sixteenth Affirmative Defense**

These proceedings and the Rules Governing the Commission violate the separation of governmental powers required by Article 2, Section 1 of the Wyoming Constitution.

**Seventeenth Affirmative Defense**

Applying the provisions of the Wyoming Code of Judicial Conduct that the Commission cites in Section B of the Notice would, under these circumstances, constitute unlawful retaliation for Respondent's exercise of the constitutional rights referenced in the prior affirmative defenses, including but not limited to Respondent's rights protected under the First and Fourteenth Amendments to the United States Constitution.

DATED this 9th day of October, 2015.

Respectfully Submitted,

By:

  
Kenneth J. Connelly\*

James A. Campbell\*  
Kenneth J. Connelly\*  
Douglas G. Wardlow\*  
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*Attorneys for Respondent*  
*\*Admitted Pro Hac Vice*

**VERIFICATION OF ANSWER**

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

Dated this 30<sup>th</sup> day of September, 2015  
Ruth Neely  
Signature

**INSTRUCTIONS TO NOTARY**

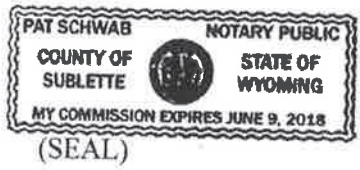
This form must be the product of an oath, not merely an acknowledgment. Before the verification is signed you must:

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 30<sup>th</sup> day of September, 2015.  
By RUTH NEELY

Pat Schwab  
Notary Public



My Commission Expires: 6-9-18

## CERTIFICATE OF SERVICE

I hereby certify that on the 9th day of October, 2015, I served the foregoing Verified Amended Answer by electronic mail on the following:

Patrick Dixon, Esq.  
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pdixn@aol.com

Wendy J. Soto  
Executive Director  
Commission on Judicial Conduct & Ethics  
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Cheyenne, WY 82003  
wendy.soto@wyboards.gov



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Kenneth J. Connelly