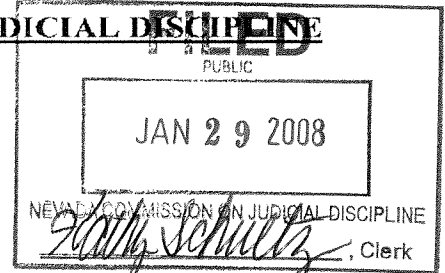


**BEFORE THE NEVADA COMMISSION ON JUDICIAL DISCIPLINE**

**STATE OF NEVADA**



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

CASE NO. 0801-1066

**COMES NOW**, Respondent the Honorable Elizabeth Halverson, by and through her attorneys, Dominic P. Gentile, Esq., John L. Arrascada, Esq., and William H. Gamage, Esq., and Answer to the Formal Statement of Charges on file herein and admit, deny and affirmatively aver as follows:

1. As to paragraphs 1, 2, 3, 3(c), 3(d), 4, 5, 5(c), 5(e), 5(f) – 5(o), 5(q), 5(s) – 5(w), 6, 7, 7(a), 7(b), 8, 9, 10, 11, 11(a), 11(b), 12, 12(a), 12(b), 13, 13(a) – 13(c), 14, 14(a), and 14(d) Respondents deny each and every allegation contained therein.
2. As to paragraphs 1(a), 1(b), 2(a) – 2(c), 3(a), 3(b), 4(a), 4(b), 5(a), 5(b), 5(d), 5(r), 6(a) – 6(e), 8(a) – 8(d), 9(a) – 9(e), 10(a) – 10(c), 11(c), 14(b), and 14(c) Respondent is without sufficient knowledge or belief as to the matters contained therein and on that basis deny each and every allegation contained therein.

**AFFIRMATIVE DEFENSES**

**FIRST AFFIRMATIVE DEFENSE**

Commission's Formal Statement of Charges fails to state a claim, violation of law, or violation of the Judicial Canons upon which relief can be granted against Respondent, and/or the Formal Statement of Charges fails to state ultimate facts sufficient to constitute any relief or penalty against Respondent.

**SECOND AFFIRMATIVE DEFENSE**

Commission's Formal Statement of Charges fails to state a violation of the Judicial Canons upon which relief can be granted against Respondent because the Canon passage relied upon contains hortatory text which shall not be used to impose discipline.

1 THIRD AFFIRMATIVE DEFENSE

2 Commission's Formal Statement of Charges fails to state a claim, violation of law, or  
3 violation of the Judicial Canons upon which relief can be granted against Respondent because  
4 the Formal Statement of Charges fails to make any allegation of severity or pervasiveness.

5 FOURTH AFFIRMATIVE DEFENSE

6 Commission's Formal Statement of Charges fails to state a claim, violation of law, or  
7 violation of the Judicial Canons upon which relief can be granted against Respondent, because  
8 Respondent is entitled to exercise her Rights to Free Speech under the First Amendment to the  
9 United States Constitution and Article 1, § 9 of the Nevada Constitution.

10 FIFTH AFFIRMATIVE DEFENSE

11 Commission's Formal Statement of Charges fails to state a claim, violation of law, or  
12 violation of the Judicial Canons upon which relief can be granted against Respondent, because  
13 Respondent is entitled to Due Process under the Fourteenth Amendment to the United States  
14 Constitution and Article 1, § 1 of the Nevada Constitution.

15 SIXTH AFFIRMATIVE DEFENSE

16 Commission's Formal Statement of Charges fails to state a claim, violation of law, or  
17 violation of the Judicial Canons upon which relief can be granted against Respondent because  
18 the conduct alleged was not willful misconduct, does not involve willful or persistent failure to  
19 perform the duties of office, or habitual intemperance.

20 SEVENTH AFFIRMATIVE DEFENSE

21 Commission's Formal Statement of Charges fails to state a claim, violation of law, or  
22 violation of the Judicial Canons upon which relief can be granted against Respondent because  
23 the allegations do not constitute facts sufficient to allege that Judge Halverson suffers from  
24 advanced age or infirmity which interferes with the proper performance of her judicial duties, or  
25 that she suffers from mental or physical disability which prevents the proper performance of her  
26 judicial duties and which is likely to be permanent in nature.

27 EIGHTH AFFIRMATIVE DEFENSE

28 Commission's Formal Statement of Charges fails to state a claim, violation of law, or  
29 violation of the Judicial Canons upon which relief can be granted against Respondent, and/or the  
30 Formal Statement of Charges fails to state ultimate facts sufficient to constitute any relief or  
31 penalty against Respondent because the matter falls outside the jurisdiction granted to the  
32 Commission.

1 NINTH AFFIRMATIVE DEFENSE

2 Commission's Formal Statement of Charges fails to state a claim, violation of law, or  
3 violation of the Judicial Canons upon which relief can be granted against Respondent, because  
4 Respondents acts, if they even occurred, are shielded by absolute judicial immunity by virtue of  
her elected position as a Nevada District Court Judge.

5 TENTH AFFIRMATIVE DEFENSE

6 Commission's Formal Statement of Charges fails to state a claim, violation of law, or  
7 violation of the Judicial Canons upon which relief can be granted against Respondent, because  
8 Commission failed to attempt to resolve the matter informally.

9 ELEVENTH AFFIRMATIVE DEFENSE

10 Commission's Formal Statement of Charges fails to state a claim, violation of law, or  
11 violation of the Judicial Canons upon which relief can be granted against Respondent, because  
12 Respondent is entitled to protections of the *Americans With Disabilities Act* and said Counts  
13 violate the Judge's Federal Rights to be free from discrimination based upon an accepted  
qualifying disability.

14 TWELFTH AFFIRMATIVE DEFENSE

15 Commission's Formal Statement of Charges fails to state a claim, violation of law, or  
16 violation of the Judicial Canons upon which relief can be granted against Respondent, because  
17 Respondent is entitled to Equal Protection under the law in accordance with the Fourteenth  
Amendment to the United States Constitution.

18 THIRTEENTH AFFIRMATIVE DEFENSE

19 Commission's Formal Statement of Charges fails to state a claim, violation of law, or  
20 violation of the Judicial Canons upon which relief can be granted against Respondent, and/or the  
21 Formal Statement of Charges fails to state ultimate facts sufficient to constitute any relief or  
penalty against Respondent because the matter constituted arguable judicial error for which  
Appeal to the Nevada Supreme Court is the sole remedy.

22 FOURTEENTH AFFIRMATIVE DEFENSE

23 Respondents hereby incorporate by reference those affirmative defenses enumerated in  
24 N.R.C.P. 8 as if fully set forth herein. In the event that further investigation or discovery reveals  
25 the applicability of any such defenses, Respondents reserve the right to seek leave of this  
Commission to amend its Answer to assert same. Such defenses are herein incorporated by  
reference for the specific purpose of non-waiver.

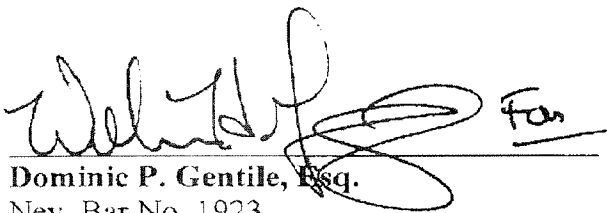
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FIFTEENTH AFFIRMATIVE DEFENSE

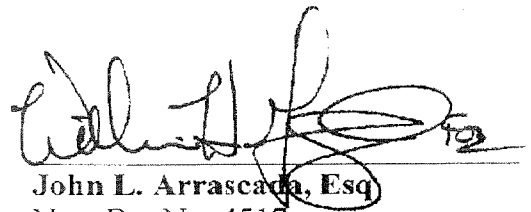
Pursuant to N.R.C.P. 11, as amended, all possible affirmative defenses may not have been alleged herein insofar as sufficient facts were not available after reasonable inquiry upon the filing of Respondent's Answer, and therefore Respondent reserves the right to amend this Answer to assert additional affirmative defenses if subsequent investigation warrants.

**WHEREFORE**, Respondent prays that Commission take nothing or be permitted to levy any penalty or disciplinary action by virtue of the Formal Statement of Charges.

DATED this 28<sup>th</sup> day of January, 2008.

  
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\_\_\_\_\_

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2<sup>nd</sup> FLOOR  
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(702) 386-9529  
(702) 382-9529 (Facsimile)

**CERTIFICATE OF SERVICE**

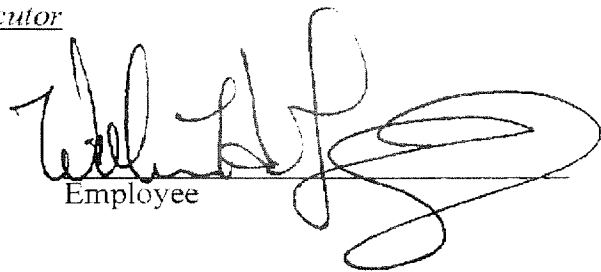
I hereby certify and affirm that I placed a copy of the foregoing ANSWER TO THE FORMAL STATEMENT OF CHARGES to the parties listed below on the 27 day of Jan, 2008:

	by placing the same in the United States Mail with first class postage prepaid attached thereto,
	by placing the same in the United States Mail via Certified Mail, Return Receipt Requested, with postage prepaid attached thereto,
X	via telephonic facsimile transmission to (775) 687-3607 & (775) 852-6930
X	Federal Express/Express Mail, or other overnight delivery,
	via hand-delivery

and addressed for delivery to:

Nevada Commission on Judicial Discipline  
3476 Executive Point Way, Suite 15  
Carson City, NV 89706

Dorothy Nash-Holmes  
Nev. Bar No. 2057  
10488 Chatwell Drive  
Carson City, Nevada 89521  
(775) 852-7371  
(775) 852-6930 (Facsimile)  
Appointed Special Prosecutor

  
Employee

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