

BEFORE THE COMMISSION ON JUDICIAL CONDUCT AND ETHICS

STATE OF WYOMING

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

**CERTIFIED RECORD
VOLUME 4**

EXHIBIT 28

**COMMISSION ON JUDICIAL CONDUCT AND ETHICS
P.O. Box 2645
Cheyenne, Wyoming 82003**



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Scott E. Ortiz
Julie Tiedeken, Chair

Citizen Members:
Kerstin Connolly, Vice Chair
Barbara H. Dilts
Mary Flitner
Karen Hayes
Dorina Cay Heinz
Leslie Petersen

Judge Members:
Wendy M. Bartlett
W. Thomas Sullins
Wade E. Waldrip

January 12, 2015

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

Hon. Curt A. Haws
Circuit Court Judge
Ninth Judicial District
PO Box 1796
Pinedale WY 82941

Re: Sublette Examiner Article, December 11, 2014

Dear Judges Neely and Haws:

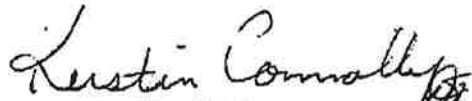
The Investigatory Panel of the Commission on Judicial Conduct and Ethics recently became aware of an article in the Sublette Examiner which included comments attributed to Judge Neely. We are enclosing a copy of the on-line article, as well as a print out of the entire text of the article, for your review. The Panel requests each of you provide information regarding whether Judge Neely is a circuit court magistrate, or what other authority she may have to perform marriages. We also request information on whether Judge Neely was aware her comments would be published in the Sublette Examiner. In addition, the Panel would like to know if the article is accurate, more specifically whether Judge Neely is refusing to perform same sex marriages while performing other marriages.

Finally, the Panel would like any additional explanation regarding the comments in the article as they relate to *The Wyoming Code of Judicial Conduct, Rule 2.3 Bias, Prejudice, and Harassment*. The panel requests a response to this inquiry from you by February 11, 2015.



Thank you for your attention to this matter.

Sincerely,

Handwritten signature of Kerstin Connolly in cursive script.

Kerstin Connolly, Presiding Officer
Investigatory Panel

Enclosure as stated

cc: Investigatory Panel Members

EXHIBIT 29

1 BEFORE THE COMMISSION ON JUDICIAL CONDUCT AND ETHICS

2 STATE OF WYOMING

3

4 An inquiry concerning) No. 2014-27
The Honorable Ruth Neely)
5 Municipal Court Judge and) TELECONFERENCE MEETING
Circuit Court Magistrate)
6 Ninth Judicial District)
Pinedale, Sublette County)
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Teleconference Meeting of Commission on
Judicial Conduct and Ethics

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Transcribed from an Audio Recording

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February 18, 2015

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(File name: 2014-27NeelyIPanel2.18.15.mp3)

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ARIZONA REPORTING SERVICE, INC.
Audio Transcription Specialists
2928 North Evergreen Street
Phoenix, Arizona 85014-5508

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Transcribed by:
Katherine A. McNally
CERTIFIED TRANSCRIBER
CET**323

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1 TRANSCRIPT OF AUDIO RECORDED PROCEEDINGS

2 recorded on February 18, 2015.

3

4

5 BEFORE: WADE WALDRIP, Judge
6 WENDY SOTO, Executive Director
7 LESLIE PETERSEN, Commission Member
8 KERSTIN CONNOLLY, Chair, Citizen Member
9 KAREN HAYES, Citizen Member
10 JULIE TIEDEKEN, Citizen Member

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1 (Commencement of audio recorded meeting.)

2 * * * * *

3 MS. SOTO: It is Wednesday, February 18th, 2015,
4 at noon. And this is a meeting of the I-panel in Case
5 Number 2014-27. This is an own motion matter. And the
6 judge is Municipal Court Judge Neely, from Pinedale --
7 Ruth Neely.

8 Members of the I-panel are Kerstin Connolly is
9 the chair; Karen Hayes; Leslie Petersen; Julie Tiedeken;
10 and Judge Wade Waldrip.

11 Okay. We are on the record.

12 UNIDENTIFIED SPEAKER: Okay. We are here for a
13 conference call on Case 2014-27. And we are here to
14 discuss the responses that we received from both judges.
15 So I guess, does anybody want to start or do you want me
16 just to go down the line on what we -- where we want to
17 go with this and what our thoughts are?

18 Okay. Karen, I'll start with you, then.

19 What were your thoughts upon receiving --

20 MS. HAYES: It seemed to me in reading what we
21 got from both judges that they kind of -- they kind of
22 have policed themselves. I'll just -- I mean, I want
23 to hear what everybody else thinks about it, but I agree
24 with the suspension. If her sole responsibility is
25 performing marriages and she has a philosophical or

1 religious holdback for that or whatever that she can't
2 do that, I mean, I -- I would defer to the -- to judge
3 Waldrip, but a judge doesn't have that luxury, I don't
4 think. So that's my thought on it.

5 UNIDENTIFIED SPEAKER: Wade, what are your
6 thoughts?

7 JUDGE WALDRIP: I am deeply troubled on several
8 levels. I do not believe her response is adequate. I
9 do not believe she responded to Rule 2.3, which clearly
10 prohibits a discrimination based upon sexual
11 orientation. I do not believe she can continue in the
12 role of a magistrate, nor am I at all convinced that she
13 can continue in her role -- in any role in the
14 judiciary.

15 I am sensitive to her obviously sincere
16 religious beliefs, but she has manifested evidence of
17 bias based upon sexual orientation in violation of a
18 clear rule of judicial conduct.

19 UNIDENTIFIED SPEAKER: Okay.

20 MS. PETERSEN: Well, this is Leslie. I'm
21 totally in agreement with Judge Waldrip.

22 MS. TIEDEKEN: This is Julie. I'm totally in
23 agreement with Judge Waldrip, and I think the matter
24 should be referred to an A-panel for -- because I think
25 there is probable cause to believe that the judge

1 violated the rules of professional conduct. And if I
2 understand our rules, I think at this point it should be
3 referred to an A-panel for an appropriate sanction and
4 hearing if the judge requests one.

5 JUDGE WALDRIP: Either that or the way I read
6 the rule, maybe there's -- is there the potential for
7 this panel to hire counsel and seek some kind of
8 settlement? And by that, I mean we get somebody to go
9 up there and say, Judge, you want to retire, or do you
10 want this referred to an adjudicatory panel?

11 MS. SOTO: This is Wendy.

12 I -- I think even if -- I mean, I have to look
13 at the rule. I think even if you refer it to an
14 A-panel, we need to hire disciplinary counsel. But what
15 would you prefer to do first is the question, I guess.

16 MS. TIEDEKEN: (Indiscernible.)

17 UNIDENTIFIED SPEAKER: The way I would hire --

18 MS. TIEDEKEN: Go ahead.

19 UNIDENTIFIED SPEAKER: Go ahead, Julie.

20 MS. TIEDEKEN: What I was going to say is the
21 way I understand it is that if the I-panel finds
22 probable cause that there's been a violation, that it is
23 referred to the A-panel at that point and disciplinary
24 counsel is hired. But if there are any settlement
25 discussions, the settlement discussions take place with

1 the I-panel.

2 UNIDENTIFIED SPEAKER: I-panel.

3 MS. SOTO: That's correct.

4 UNIDENTIFIED SPEAKER: Um-hmm.

5 MS. TIEDEKEN: Is that correct? That's how I
6 understand it.

7 MS. SOTO: Yes, that is correct.

8 MS. TIEDEKEN: The A-panel, and the adjudicator,
9 should not be involved in settlement discussions. I
10 think that was one of the changes that we made in our
11 rules.

12 MS. SOTO: That's right, Julie.

13 MS. TIEDEKEN: (Indiscernible) sure that the
14 finder -- you know, that the finder --

15 UNIDENTIFIED SPEAKER: Yeah.

16 MS. TIEDEKEN: -- you know, that the judge, so
17 to speak, the judges are not discussing settlement.

18 I -- I would be somewhat opposed to allowing the
19 judge to resign as a settlement, you know, if that comes
20 up, because -- because of the newspaper story, because
21 she went public.

22 JUDGE WALDRIP: Well, she went -- she not only
23 went public, she went public after being advised to make
24 no comment.

25 MS. TIEDEKEN: Right.

1 UNIDENTIFIED SPEAKER: Yeah.

2 MS. TIEDEKEN: I mean, I just -- I just have a
3 really hard time saying, okay, we're going to let her
4 resign after that happened.

5 JUDGE WALDRIP: I certainly don't have any
6 problem finding probable cause to refer it to the
7 A-panel.

8 UNIDENTIFIED SPEAKER: Okay. I don't think
9 anybody would disagree with that. (Indiscernible) like
10 the proper procedure to me.

11 So, Julie, do you want to make a motion then?

12 MS. TIEDEKEN: I'll make a motion that we refer
13 the matter to an A-panel after -- after finding the
14 probable cause.

15 UNIDENTIFIED SPEAKER: Okay. Do we have a
16 second?

17 MS. PETERSEN: I'll second. This is Leslie.

18 UNIDENTIFIED SPEAKER: Leslie. Do we have any
19 further discussion on this matter?

20 Okay. Hearing none, all those in favor of
21 referring it to an A-panel, signify by saying aye.

22 (A chorus of ayes.)

23 UNIDENTIFIED SPEAKER: All those opposed?

24 Okay. Motion carries. So then, Wendy, you'll
25 take care of getting the A-panel set up?

1 MS. SOTO: Yes. And I assume then that you want
2 me to hire disciplinary counsel?

3 UNIDENTIFIED SPEAKER: Yes.

4 MS. SOTO: So Pat Dixon is at the top of our
5 list. Is that okay with everyone?

6 UNIDENTIFIED SPEAKER: That's fine with me.

7 JUDGE WALDRIP: (Indiscernible.)

8 UNIDENTIFIED SPEAKER: Fine with me.

9 UNIDENTIFIED SPEAKER: Fine.

10 MS. SOTO: Okay.

11 UNIDENTIFIED SPEAKER: Okay.

12 MS. SOTO: Okay.

13 UNIDENTIFIED SPEAKER: Well, I guess that
14 concludes our conference call on 2014-27.

15 MS. SOTO: I will --

16 MS. TIEDEKEN: I apologize for holding everybody
17 up.

18 MS. SOTO: It's okay.

19 UNIDENTIFIED SPEAKER: We forgive you, Julie.

20 JUDGE WALDRIP: (Indiscernible.)

21 UNIDENTIFIED SPEAKER: We had a nice visit,
22 Julie.

23 MS. TIEDEKEN: Oh, well, good.

24 JUDGE WALDRIP: We did.

25 MS. SOTO: I -- just one last thing before we

1 go. I will -- I'll look at all of the forms and draft
2 some appropriate language, which I'll probably need to
3 be -- to run past all of you. Usually when I've seen
4 this before, we've had a report from disciplinary
5 counsel to use, but I'm sure we can -- I can draft some
6 language that would be appropriate. But I'll run it
7 past all of you before we get anything finalized, and
8 I'll call Pat today.

9 UNIDENTIFIED SPEAKER: Okay. Great.

10 MS. SOTO: All right?

11 UNIDENTIFIED SPEAKER: All right. Thanks
12 everybody.

13 UNIDENTIFIED SPEAKER: Thank you.

14 MS. SOTO: All right. Thanks, everyone.

15 UNIDENTIFIED SPEAKER: Thank you.

16 JUDGE WALDRIP: Bye.

17 UNIDENTIFIED SPEAKER: Bye-bye.

18 MS. SOTO: Bye-bye.

19 * * * * *

20 (Conclusion of audio recorded proceedings.)

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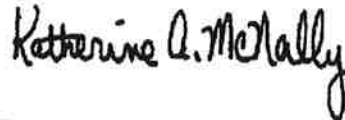
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C E R T I F I C A T E

I, Katherine McNally, Certified
Transcriptionist, do hereby certify that the foregoing
pages 1 to 9 constitute a full, true, and accurate
transcript, from electronic recording, of the
proceedings had in the foregoing matter, all done to the
best of my skill and ability.

SIGNED and dated this 18th day of August 2015.



Katherine McNally
Certified Electronic Transcriber
CET**D-323

EXHIBIT 30

First name

Last name

Email address

Zip code

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Wyoming Lawyers for Marriage

Wyoming Lawyers for Marriage is a coalition of voices in Wyoming's legal community who are calling for the freedom to marry, urging marriage is a fundamental right for gay and lesbian couples across the state.



The coalition is made up of over 50 attorneys who practice in Wyoming including some current and former public officials, others coming from distinguished law schools and still more from some of the state's largest firms. Members of the coalition are steadfast in their support for marriage equality and believe that it is the responsibility of the judicial system to protect that fundamental freedom to marry the person you love.

There are several pending lawsuits that could impact Wyoming, including a lawsuit recently filed in state court on behalf of four same-sex couples who are seeking the freedom to marry or respect for marriages legally performed in other states. This coalition is just another, in a growing list of affirmations that not only is the freedom to marry the right thing to do, but it is also a matter of equal rights under the law.

[Click here to sign on as a Wyoming Lawyer for Marriage!](#)

Wyoming lawyers who support the freedom to marry



Michael Rosenthal, Hathaway & Kunz, P.C.

"As an attorney, a Republican, and one of four generations of my family who have called Wyoming home, I think it is time for Wyoming to live up to its motto and the principles that have made us great throughout our state's history: equality, rugged individualism, independence, freedom, live and let live. The freedom to marry the person you love, and enjoy equal rights, fits right in."



Michael Duff, University of Wyoming College of Law

"I have spent half a lifetime trying to define justice with precision. While I have not yet achieved my objective, even the effort to do so has made it much easier for me to identify injustice. It is thus easy for me to see that it is as unjust to deny loving same-sex couples the right to enter into state-sanctioned marriage as it once was to deny that right to loving persons of different races, a legal reality that actually existed during my lifetime. As the person of mixed-race heritage that I am, the analogy could not be clearer."

Tracy Hucka Casper

"As a Wyoming lawyer, the freedom to marry is important to me because the purpose of government is to safeguard individual rights and prevent some persons from harming others. Straight couples should not be treated preferentially when the state carries out that role. No one is harmed by the union of two consenting gay people. I believe that gay couples are entitled to the same legal rights and the same respect and dignity accorded to all Wyoming citizens."

Ava Bell Rawlins

"As a Wyoming Lawyer I support marriage equality because all Wyomingites deserve equal rights. It is a fundamental freedom to marry whom you

choose and if Wyoming is going to proclaim that it is a 'live and let live' state then we should honor that motto to all degrees including letting two consenting adults marry whomever they choose to."



Stephen Feldman, University of Wyoming
"The freedom to marry is a fundamental issue of equality."

Mark Aronowitz	Michael Rosenthal, Hathaway & Kunz, P.C.
Ava Bell, Rawlins	Wendy Ross, Parsons & Associates, P.C.
Lori Brand	Dawn Scott
Linda Burt, ACLU of Wyoming	Carol Serelson, Serelson Law Office
Dameione Cameron, Cameron Law Office	Tim Newcomb
Kenneth Chestek	Noah Novogrodsky, UW Law School
Diane Courselle	Devon O'Connell, Pence and MacMillan LLC
Patrick Crank, Crank Legal Group, P.C.	Stacey Obrecht, Attorney
Jennifer Daniel, Happy Jack Software, Inc.	Tina Olson
Linda Devine, Devine Law	Mel Orchard
Michael Duff, University of Wyoming College of Law	Mary T. Parsons, Parsons & Associates, P.C.
Amanda Esch, Davis & Cannon, LLP	Charles Pelkey, Neubauer, Pelkey and Goldfinger, LLP
Stephen Feldman, University of Wyoming	Rennie Polidora, WY Coalition Against Domestic Violence & Sexual Assault
Shelly Flot, Law Office of Shelly K. Flot, P.C.	Rosslyn Read, Trefonas Law, P.C.
Abigail Forwood, Crank Legal Group, P.C.	Jason Robison, University of Wyoming
Timothy Forwood, Laramie County District Attorney	Michael Rosenthal, Hathaway & Kunz, P.C.
Alex Freeburg, Freeburg Law, LLC	Wendy Ross, Parsons & Associates, P.C.
Vicky Fry	Dawn Scott
Mary Elizabeth Galvan, Galvan & Fritzen	Carol Serelson, Serelson Law Office
Matt Greene	Christopher Petrie
Bern Haggerty	Lea Colasuonno
Nick Healey	Susan Feinman, Law Office of Susan L. Feinman
Jill Higham	Abigail Fournier, Linda J. Steiner, Attorney at Law
Jennifer Horvath, ACLU of Wyoming	Megan Hayes, Corthell and King, P.C.
Tracy Hucke, Casper	Aaron Hockman
Robert Ingram, The Ingram Law Office, P.C.	Todd Ingram, Ingram | Olheiser, P.C.
Sarah Jacobs, Fleener and Vang	Amy Jenkins, Mediation Specialists
Kris Koski	Traci Lacock, Hathaway & Kunz, P.C.
John Kuker, The Kuker Group, LLP Attorneys-at-Law	Kathleen Lewis
Chestora Lee	Peter Maxfield
Kathleen Cindy Lewis	Steve Mink
Tyson Logan, The Spence Law Firm, LLC	Amy Pauli, Attorney General
Michael Lutz, The Spence Law Firm, LLC	Ted Preston, Karnopp, Radosevich & Preston, LLC
Monique Meese	Joyce Schaedler, Fuller & Schaedler Law Offices, PC
Tim Newcomb	Douglas Schultz, Schultz Law Firm, LLC
Noah Novogrodsky, UW Law School	Kristen Schwartz, WCADVSA
Devon O'Connell, Pence and MacMillan LLC	Wyatt Skaggs
Stacey Obrecht, Attorney	Matt Winslow, Keegan & Winslow, P.C.
Tina Olson	

10/19/2015

Mel Orchard

Mary T. Parsons, Parsons & Associates, P.C.

Charles Pelkey, Neubauer, Pelkey and Goldfinger, LLP

Rennie Polidora, WY Coalition Against Domestic Violence & Sexual Assault

Rosslyn Read, Trefonas Law, P.C.

Jason Robison, University of Wyoming

Linda Steiner, Steiner Law, LLC

Laurie Stern, Assoc. Attorney at Lubing & Corrigan, LLC

Mary Throne, Throne Law Office, P.C.

Elisabeth Trefonas, Trefonas Law

Tracy Zubrod, Zubrod LW

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EXHIBIT 31

**COMMISSION ON JUDICIAL CONDUCT AND ETHICS
P.O. Box 2645
Cheyenne, Wyoming 82003**

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Mel C. Orchard III, Vice Chair
Scott E. Ortiz



Wendy J. Soto
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Website: <http://judicialconduct.wyo.gov>

Citizen Members:
Kerstin Connolly, Chair
Barbara H. Dilts
Mary Flitner
Karen Hayes
Donna Cay Heinz
Leslie Petersen

Judge Members:
Wendy M. Bartlett
Wade E. Waldrip
Norman E. Young

March 2, 2015

Kerstin Connolly, Chairman
Commission on Judicial Conduct and Ethics
501 Running W Drive
Gillette, WY 82718

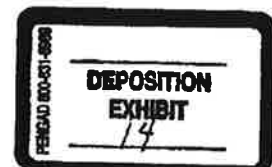
Re: In the Matter of Circuit Court Magistrate/Municipal Court Judge,
Ruth Neely, Pinedale, Sublette County, Ninth Judicial District
CJCE 2014-27 Referral for Formal Proceedings - Own Motion Investigation

Dear Kerstin:

In accordance with Rule 7(g) of the *Rules Governing the Commission on Judicial Conduct and Ethics*, the Investigatory Panel is referring the file in this matter to an Adjudicatory Panel for institution of formal proceedings. The Adjudicatory Panel members at this time are:

Mel Orchard, Presiding Officer and Hearing Officer
Barbara Dilts
Hon. Wendy Bartlett

This matter came before the Commission on its own motion and based on a newspaper article published in the Sublette Examiner. The matter was assigned to an Investigatory Panel on December 22, 2014. The Investigatory Panel unanimously voted to send an inquiry to Judge Neely, providing a copy of the article to the judge. Upon receipt of Judge Neely's



answer to its inquiry, the Investigatory Panel conferred by conference call on February 18, 2015, and found reasonable cause to believe judicial misconduct occurred based on evidence of a violation of the canons of the Wyoming Code of Judicial Conduct. The Investigatory Panel determined the conduct of Judge Neely constitutes judicial misconduct by violation of the following canons of the Wyoming Code of Judicial Conduct:

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

Rule 1.1. Compliance with the Law.

Rule 1.2. Promoting Confidence in the Judiciary.

Canon 2. A judge shall perform the duties of judicial office impartially, competently, and diligently.

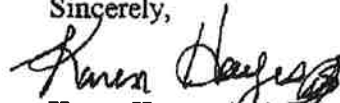
Rule 2.2. Impartiality and Fairness.

Rule 2.3. Bias, Prejudice and Harassment.

The Investigatory Panel voted unanimously to refer the matter to an Adjudicatory Panel for formal proceedings. Pat Dixon, Casper, was retained by the Investigatory Panel as disciplinary counsel to prepare and prosecute formal charges in connection with this investigation.

Disciplinary counsel will prepare a written Notice of Commencement of Formal Proceedings in this matter.

Sincerely,



Karen Hayes, Acting Presiding Officer
Investigatory Panel

cc: Investigatory Panel
Adjudicatory Panel
Disciplinary Counsel

EXHIBIT 32

TC

Kurt Twitty - Washington Commission

Secondary Sources

Law review articles

Cases out of Canada

AG Opinions

Governor Opinions (Romney)

New York -

Respondent judge - decent person
respects Commission -

Interest in maintaining public
trust.

Argument Commission compelling
Defendant to interview

Louisiana judge -

Will email all

Email received
3/3/15



EXHIBIT 33

FILED
OCT - 4 2013
COMMISSION ON JUDICIAL CONDUCT

**BEFORE THE COMMISSION ON JUDICIAL CONDUCT
OF THE STATE OF WASHINGTON**

In Re the Matter of:
The Honorable Gary Tabor,
Thurston County Superior Court Judge

CJC No. 7251-F-158
**STIPULATION, AGREEMENT
AND ORDER OF ADMONISHMENT**

The Commission on Judicial Conduct and Gary R. Tabor, Judge of the Thurston County Superior Court, stipulate and agree as provided herein. This stipulation is submitted pursuant to Article IV, Section 31 of the Washington Constitution and Rule 23 of the Commission's Rules of Procedure and shall not become effective until approved by the Washington Commission on Judicial Conduct.

I. STIPULATED FACTS

1. Judge Gary Tabor (Respondent) is now, and was at all times referred to in this document, a judge of the Thurston County Superior Court. Respondent has served in that capacity since 1997.

2. On November 6, 2012, the people of the State of Washington passed Referendum Measure 74. This vote approved same-sex marriages in the State of Washington as previously authorized by legislation passed by the Washington legislature and signed by the governor. The effective date of this change in the law was December 6, 2012. Interested persons could apply for a marriage license beginning on that date.

3. Shortly before Referendum 74 was to take effect, during an administrative meeting attended only by judges and some court personnel, Respondent informed those present that he felt "uncomfortable" performing same-sex marriages and asked his colleagues who did

1 not have similar personal objections to officiate in his stead over such marriages at the
2 courthouse.¹

3 4. Respondent's statement that he felt uncomfortable performing same-sex
4 marriages was broadly publicized after reporters learned about his position from an
5 unidentified source. After the publication of several newspaper articles and related online
6 comments, Respondent responded to press inquiries in order to clarify his position. He stated
7 that his decision not to marry same-sex couples was a very personal one, based on his religious
8 views. Respondent reasoned that since judges are not required, but are only permitted, to
9 perform marriages, he believed he was within his rights to personally decline to perform same-
10 sex marriages, so long as those seeking to have their marriages solemnized had access to
11 another judge without delay.

12 5. The Commission contacted Respondent on March 2, 2013, after receiving
13 complaints following publicity about Respondent's position. Respondent timely answered the
14 Commission's Statement of Allegations on March 18, 2013. Following contact by the
15 Commission, of his own volition, Respondent ceased performing all marriages in his judicial
16 capacity.

17 6. Between December 6, 2012 (when Washington's Marriage Equality Act became
18 effective) and when Judge Tabor ceased performing all marriages in his judicial capacity, he
19 solemnized approximately ten weddings, all involving opposite-sex couples. He was not given
20 the option to perform a same-sex marriage ceremony during that time and did not expressly
21 decline to solemnize any specific same-sex marriage. (The Commission's investigation,
22 however, indicates a court employee aware of Judge Tabor's position redirected a same-sex
23 couple scheduled to be married during Judge Tabor's regular wedding rotation to another
24

25 ¹ At that time, each of the eight Thurston County Superior Court judges had agreed to take weekly turns
26 being the "on-call" judge to perform civil wedding ceremonies after court hours for people who request to be
married by a judge.

1 judicial officer at the courthouse. Neither the couple nor Judge Tabor were told of the
2 substitution of judges.)
3

4 IL AGREEMENT

5 1. Respondent accepts the Commission's determination that he created an
6 appearance of impropriety in contravention of Canon 1 (Rules 1.1 and 1.2) and Canon 3 (Rule
7 3.1(C)) of the Code of Judicial Conduct by publically stating he would not perform same-sex
8 marriages in his judicial capacity while continuing to perform opposite-sex marriages.

9 2. Rules 1.1, 1.2 and 3.1(C) of the Code oblige judges to avoid impropriety and the
10 appearance of impropriety by acting at all times in a manner that promotes public confidence in
11 their independence, integrity and impartiality.²

12 3. Washington State's law against discrimination, RCW 49.60, sets forth classes of
13 people protected by law against discrimination. Sexual orientation is included in the classes of
14 people protected. Respondent accepts the Commission's determination that, by announcing he
15 would not solemnize same-sex marriages due to his philosophical and religious concerns while
16 continuing to solemnize opposite-sex marriages, he appeared to express a discriminatory intent
17 against a statutorily protected class of people thereby undermining public confidence in his
18 impartiality. As a comment to Rule 3.1 of the Code explains: "Discriminatory actions and
19 expressions of bias or prejudice by a judge, even outside the judge's official or judicial actions,
20 are likely to appear to a reasonable person to call into question the judge's integrity and
21 impartiality."
22
23

24 ² Canon 1, Rule 1.1 provides, "A judge shall comply with the law, including the Code of Judicial
25 Conduct"; Canon 1, Rule 1.2 provides, "A judge shall act at all times in a manner that promotes public confidence
26 in the independence, integrity and impartiality of the judiciary, and shall avoid impropriety and the appearance of
impropriety"; and Canon 3, Rule 3.1(C) states, "A judge may engage in extrajudicial activities, except as
prohibited by law or this Code. However, when engaging in extrajudicial activities, a judge shall not participate
in activities that would undermine the judge's independence, integrity or impartiality."

1 4. Respondent is not required as a judicial officer to solemnize marriages.³ Having
2 chosen to make himself available to solemnize some weddings, however, he is bound by the
3 Code of Judicial Conduct to do so in a way that does not discriminate or appear to discriminate
4 against a statutorily-protected class of people.

5 5. The Code of Judicial Conduct imposes on judicial officers a specific,
6 enforceable obligation to avoid bias and the appearance of bias. These obligations go beyond
7 those imposed on others who serve the general public, reflecting the unique and integral role
8 judicial officers play in our constitutional scheme of justice honoring the rule of law.⁴ Judges
9 must not only be impartial, but must also be perceived as impartial, in order to properly fulfill
10 that role. Thus, as set forth in a comment to Rule 1.2 of the Code of Judicial Conduct, "A
11 judge should expect to be the subject of public scrutiny that might be viewed as burdensome if
12 applied to other citizens, and must accept the restrictions of the Code."

13
14 **III. IMPOSITION OF SANCTION**

15 1. The sanction imposed by the Commission must be commensurate to the level of
16 Respondent's culpability, sufficient to restore and maintain the public's confidence in the
17 integrity of the judiciary, and sufficient to deter similar acts of misconduct in the future. In
18 determining the appropriate level of discipline to impose, the Commission must consider the
19 non-exclusive factors set out in Rule 6(c) of its Rules of Procedure.

20
21
22 ³ Solemnizing marriages is an "extra judicial activity," it is not a required duty of the office. It is done in
23 the judge's official capacity, however – judges are granted the authority by the state to solemnize marriages
precisely because of their judicial position. See RCW 26.04.050.

24 ⁴ In this regard, it is noteworthy that Washington's Marriage Equality Act specifically exempts religious
25 officials and religious organizations from the requirements of the Act, but not judicial officers. In fact, the
26 legislature considered and rejected proposed amendments to the bill that would have exempted judicial officers
from being required to solemnize any marriage that was contrary to the judicial officer's sincerely-held religious
beliefs.

1 (A) Characteristics of the Misconduct

2 (1) *Whether the misconduct is an isolated instance or evidence of a pattern of*
3 *conduct.* Though Respondent repeated his position several times and continued to solemnize
4 opposite-sex marriages for several months, the conduct at issue was singular and uniquely
5 isolated to the circumstances covered by this stipulation. Respondent amended his conduct
6 when the issue was brought to his attention. This does not, under these facts, amount to a
7 pattern of misconduct.

8 (2) *The nature, extent, and frequency of occurrence of the acts of misconduct.*
9 Respondent's decision to perform only opposite-sex marriages discriminated against a
10 protected class of people. Discriminatory behavior undermines public confidence in the
11 integrity and impartiality of the judiciary. At the time Respondent originally announced his
12 position, he stated he believed it would be an internal, administrative matter, and that he did
13 not intend to make a public statement, but to act consistently with his personal, sincere
14 religious beliefs, without depriving citizens of their statutory right to marry. Despite his
15 intention, his decision was widely publicized, whereupon Respondent stated he made the
16 decision to address it publicly trying to alleviate concerns about impartiality. He voluntarily
17 removed himself from the superior court's marriage rotation to further alleviate those concerns.

18 (3) *Whether the misconduct occurred in or out of the courtroom.* The conduct
19 occurred in the courthouse and in Respondent's capacity as a judge, but not while engaging in
20 official judicial duties.

21 (4) *Whether Respondent flagrantly and intentionally violated the oath of office.*
22 Respondent did not flagrantly or intentionally violate his oath of office. He indicates he
23 initially concluded, in good faith, that he could ethically decline to perform same-sex weddings
24 based upon his personal religious views so long as same-sex couples were accommodated by
25 having access to another judge without delay. Respondent now recognizes his analysis did not
26 adequately take into account the unique and integral role judicial officers play in our

1 constitutional scheme of justice, and how a judge must not only be impartial, but must also be
2 perceived as impartial, in order to properly fulfill that role.

3 Both the right to be free from discrimination and the First Amendment right to free
4 exercise of religion are significant and weighty. The Code acknowledges that judges are
5 individuals with personal rights and beliefs. Ultimately, the Code requires that judges conform
6 their conduct in their judicial capacity to the Code of Judicial Conduct and other law. For
7 example, (while Respondent is not charged with violating this Rule), Comment 2 to Rule 2.2
8 states "Although each judge comes to the bench with a unique background and personal
9 philosophy, a judge must interpret and apply the law without regard to whether the judge
10 approves or disapproves of the law in question."

11 (5) *The effect the misconduct has upon the integrity of and respect for the*
12 *judiciary.* In order to maintain the public's confidence in judicial decisions, a judge must not
13 only be, but appear to be, free from bias and prepared to rule based strictly on the law and facts
14 that come before the court, regardless of the extraneous characteristics of the parties. By even
15 temporarily acting in a discriminatory fashion toward gay men and lesbians, in stating that he
16 would not solemnize their marriages when he continued to solemnize heterosexual marriages,
17 and by commenting on that decision publicly, a reasonable person could objectively conclude
18 that he might act in a discriminatory fashion toward gay or lesbian litigants, lawyers, or
19 witnesses. The Commission's investigation has shown no indication that Respondent is in fact
20 biased in the manner in which he conducts his judicial duties, and he has a reputation for being
21 a scrupulous and well-informed, hard-working judge.

22 (6) *Nature and extent to which the acts of misconduct have been injurious to*
23 *other persons.* The injury is to public confidence in Respondent's impartiality on issues that
24 may come before him involving same-sex couples or even toward gay or lesbian lawyers,
25 litigants, or witnesses. In addition, marriages sometimes lead to litigation and Respondent
26 could well have created the impression he might be less than fair to a lesbian or gay person in a

1 dissolution or custody dispute matter. Respondent has credibly stated, and his conduct toward
2 this proceeding has demonstrated, that he takes very seriously his responsibility to avoid the
3 appearance of impropriety, and that he has deep respect for the institution of the court and its
4 reputation for impartiality.

5 (7) *The extent to which Respondent exploited his official capacity to satisfy*
6 *personal desires.* There is no indication Respondent exploited his position to satisfy personal
7 desires. Respondent has stated that his position was a personal one, and that he had no
8 intention to politicize or publicize it.

9 **(B) Service and Demeanor of the Judge**

10 (1) *Whether Respondent has acknowledged or recognized that the acts*
11 *occurred.* Respondent has acknowledged and recognized that the acts occurred and has shown
12 a clear and sincere understanding of the concerns of the Commission regarding his actions and
13 the Code.

14 (2) *Whether Respondent has evidenced an effort to change or modify the*
15 *conduct.* On his own volition, Respondent stopped solemnizing marriages in his capacity as
16 judge.

17 (3) *Respondent's length of service in a judicial capacity.* Respondent has been
18 an elected superior court judge for over 16 years. The Commission's investigation has shown
19 he has a reputation for being a fair and impartial jurist, and one who is hard-working and well-
20 informed in law.

21 (4) *Whether there has been prior disciplinary action concerning Respondent.*
22 There has been no prior disciplinary action involving Respondent.

23 (5) *Whether Respondent cooperated with the Commission's investigation and*
24 *proceeding.* Respondent has cooperated with the Commission investigation and has conducted
25 himself in a highly professional manner in all respects concerning this proceeding.
26

1 (6) *Respondent's compliance with an ethics advisory opinion, if any.* The
2 conduct covered by this stipulation took place at a time of change, when longstanding law was
3 just changed, after an extended campaign and a challenge to the legislature's and governor's
4 passage of a new same-sex marriage law. The views of the majority of the population are
5 plainly in flux, and this set of circumstances has not previously been squarely set before the
6 court or a judicial ethics advisory body. Respondent recognizes that part of the purpose of
7 Commission action is to inform other judges and the public of the meaning of the Code, and in
8 that way to serve an education function.

9 2. Based upon the stipulated facts, upon consideration and balancing of the above
10 factors, Respondent and the Commission agree that the imposition of an admonishment is
11 appropriate in this matter. An "admonishment" is a written action of the Commission of an
12 advisory nature that cautions a respondent not to engage in certain proscribed behavior and
13 may include a requirement that the respondent follow a specified corrective course of action.
14 An "admonishment" is the least severe disciplinary action available to the Commission.

15 3. Respondent agrees that he will not repeat such conduct in the future, mindful of
16 the potential threat any repetition of his conduct poses to public confidence in the integrity and
17 impartiality of the judiciary and to the administration of justice.

18 4. Respondent agrees he will promptly read and familiarize himself with the Code
19 of Judicial Conduct in its entirety.

20 Standard Additional Terms and Conditions

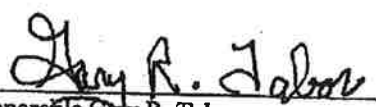
21 5. Respondent agrees that by entering into this stipulation and agreement, he
22 waives his procedural rights and appeal rights in this proceeding pursuant to the Commission
23 on Judicial Conduct Rules of Procedure and Article IV, Section 31 of the Washington State
24 Constitution.

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6. Respondent acknowledges and represents that he either consulted or has had an opportunity to consult with counsel of his choosing regarding this stipulation and proceeding. Respondent represents he voluntarily enters into this stipulation and agreement.

7. Respondent further agrees that he will not retaliate against any person known or suspected to have cooperated with the Commission, or otherwise associated with this matter.


Honorable Gary R. Tabor
Thurston County Superior Court Judge

Sept 13, 2013
Date


J. Reiko Callner
Executive Director
Commission on Judicial Conduct


9-16-13
Date

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IV. ORDER OF ADMONISHMENT

Based on the above Stipulation and Agreement, the Commission on Judicial Conduct hereby orders Respondent, Judge Gary R. Tabor, ADMONISHED for violating Canon 1, Rules 1.1 and 1.2, and Canon 3, Rule 3.1 of the Code of Judicial Conduct. Respondent shall not engage in such conduct in the future and shall fulfill all of the terms of the Stipulation and Agreement as set forth therein.

DATED this 4 day of October, 2013.


Joseph G. Bell, Acting Chair
Commission on Judicial Conduct

*Arizona Supreme Court
Judicial Ethics Advisory Committee*

ADVISORY OPINION 15-01
(February 24, 2015)

JUDICIAL OBLIGATION TO PERFORM SAME-SEX MARRIAGES

Overview

The Judicial Ethics Advisory Committee (JEAC) has received an inquiry containing a series of questions centered on whether a judge may decline to perform same-sex marriages. Below are the questions asked, with brief answers, followed by a discussion of the applicable provisions of the Arizona Code of Judicial Conduct.

Questions and Brief Answers

1. May a judge distinguish between same-sex and opposite sex couples when determining whether to perform a marriage ceremony?

No.

2. May a judge decline to perform same-sex marriage ceremonies if the individuals with a marriage license are referred to another court or individual?

No.

3. May a judge decline to perform same-sex marriages if the judge performs other marriages in a court facility?

No.

4. May a judge decline to perform same-sex marriages if the judge conducts all opposite-sex wedding ceremonies at locations that are not at a court facility?

No.

5. Do the answers to questions 1 through 4 change if the judge's decision to not conduct same-sex marriages is based upon the judge's sincerely held religious belief that marriage is the union of one man and one woman?

No.

6. Do the answers to questions 1 through 4 change if the judge's decision to not conduct same-sex marriages is based upon a personal belief rather than a sincerely held religious belief?

No.

7. May a judge choose to conduct marriage ceremonies only for friends and relatives?

A qualified yes.

Discussion

Same-sex marriages are now legal in Arizona. See *Majors v. Horne*, 14 F.Supp.3d 1313 (D. Ariz. 2014). Although still the subject of debate and continuing litigation, same-sex couples have been marrying in Arizona since October 2014. The JEAC received a multi-question inquiry regarding the obligation of judicial officers to perform same-sex marriages. At the core of the JEAC's response below is the principle that judges may not refuse to perform same-sex marriages because of the judge's opposition to the concept of same-sex marriage.

Rule 2.3(B) of the Arizona Code of Judicial Conduct provides that a judge shall not, "in the performance of judicial duties," manifest bias or prejudice based upon sexual orientation. Although the performance of a marriage by a judge is a "discretionary function" rather than a mandatory function under Rule 3.16 of the Code, it is based on statutory authority granted by the legislature. Because of this specific grant of authority, the JEAC concludes that the performance of a marriage by a judicial officer is performance of a "judicial duty" as contemplated by the Code.

Because performing a marriage is a judicial duty within the scope of Rule 2.3(B), a judge cannot refuse to perform same-sex marriages if the judge is willing to perform opposite-sex marriages. This principle resolves questions 1 through 6 above. It makes no difference whether the judge refers same-sex couples to another judicial officer (question 2), where the judge performs the marriages (questions 3 and 4), or on what principle the judge has declined to perform a same-sex marriages (questions 5 and 6). When a judge refuses to perform a marriage based on the participants' sexual orientation, it manifests bias or prejudice and violates Rule 2.3(B).

Refusing to perform same-sex marriages also violates Rule 1.1 of the Code, which states that a "judge shall comply with the law, including the Code of Judicial Conduct." Although not codified by statute, same-sex marriages have been authoritatively determined to be legal in Arizona in compliance with the United

States Constitution. Refusing to perform a marriage because participants are of the same sex is a refusal to follow the law and thus a violation of the Code. Arizona judges take an oath to support the Constitutions of the United States and Arizona and the laws of the State of Arizona and to faithfully and impartially discharge the duties of their offices. Such refusal also violates Rule 2.2 which provides that "[a] judge shall uphold and apply the law, and shall perform all duties of judicial office fairly and impartially."

The issue raised in question 7 is more nuanced. The JEAC concludes that a judge may choose not to conduct any marriages at all because performing marriages is a discretionary, not mandatory, function. A judge may also choose to conduct marriages only for friends and relatives to the exclusion of all others. Such a choice would not run afoul of Rule 2.3(B) because it is not based on sexual orientation. Of course, a judge who performs marriages only for friends and relatives would violate Rule 2.3(B) if the judge refuses to perform marriages for same-sex friends and relatives.

The JEAC recognizes the potential misuse of any accepted limitation on the categories of marriages a judicial officer is willing to perform. For example, broadly defining "friends" as all members of a social club or a church would seem to create a pathway for a judicial officer to perform marriages yet still decline to perform same-sex marriages. This practice likely would undermine a judge's ability to assert a non-discriminatory intent and the protection of this opinion in defense of a misconduct charge.

However, the JEAC does not believe that this potential misuse of a narrow category of marriages that a judge may perform justifies an all or nothing approach, where a judge either must accept every request, or perform no marriages at all. Instead, the JEAC believes that the question of whether a judge truly has a non-discriminatory reason for declining to perform a same-sex marriage must be determined on a case-by-case basis.

EXHIBIT 34

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: *March 4, 2015*

Wendy J. Soto
Wendy J. Soto

NOTICE OF COMMENCEMENT OF FORMAL PROCEEDINGS

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 4th 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 4th 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 35

**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: 

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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 36

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)

AMENDED NOTICE OF COMMENCEMENT OF FORMAL PROCEEDINGS

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

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.

9. On April 27, 2015 the Honorable Judge Ruth Neely's counsel Herbert K. Doby filed the *Motion to Appear Pro Hac Vice* on behalf of Kenneth J. Connolly, Douglas G. Wardlow, and James A. Campbell. *See Motion to Appear Pro Hac Vice*, April 27, 2015. The *Verified Answer*, which indicated that James A. Campbell, Kenneth J. Connelly, and Douglas G. Wardlow work for the Alliance Defending Freedom, was filed concurrently with the *Motion to Appear Pro Hac Vice*. *Id.*; *see also Verified Answer*, April 27, 2015. The *Order Granting Motion to Appear Pro Hac Vice* was entered June 10, 2015. *Order Granting Motion to Appear Pro Hac Vice*, June 10, 2015.

10. The Alliance Defending Freedom¹ (hereinafter, "ADF") is an organization that discriminates and advocates for the discrimination of persons based upon sexual orientation and actively pursues a political agenda that includes opposing marriage equality. See generally, <http://www.adflegal.org>. The ADF describes itself as, "an alliance-building legal organization that advocates for the right of people to freely live out their faith." See, <http://www.adflegal.org/about-us/faq>. Its mission statement is, "to keep the doors open for the Gospel by advocating for religious liberty, the sanctity of life, and marriage and family." *Id.* The ADF solicits support for its political agenda on its website, solicits donations in support of its political causes and allows users to share via Facebook ADF's political message. (*Id.*, see also, <http://www.adflegal.org/issues/marriage/redesigning-society>).

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.

¹ The ADF specializes in legal work where it believes religious freedom is being violated. See, <http://www.adflegal.org/about-us>. The ADF president, Alan Sears, co-wrote a fiercely anti-gay book, called *The Homosexual Agenda: Exposing the Principal Threat to Religious Freedom Today*. See, <http://www.adflegal.org/detailspages/biography-details/alan-sears>.

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.)

Rule 2.4 External Influences on Judicial Conduct

(A) A judge shall not be swayed by public clamor or fear of criticism.

(B) A judge shall not permit family, social, political, financial, or other interests or relationships to influence the judge's judicial conduct or judgment.

(C) A judge shall not convey or permit others to convey the impression that any person or organization is in a position to influence the judge.

Canon 3. A judge shall conduct the judge's personal and extrajudicial activities to minimize the risk of conflict with the obligations of judicial office.

Rule 3.6 Affiliation with Discriminatory Organizations

(A) A judge shall not hold membership in any organization that practices invidious discrimination on the basis of race, sex, gender, religion, national origin, ethnicity, or sexual orientation.

(B) A judge shall not use the benefits or facilities of an organization if the judge knows or should know that the organization practices invidious discrimination on one or more of the basis identified in paragraph (A). A judge's attendance at an event in a facility of an organization that the judge is not permitted to join is not a violation of the Rule when the judge's attendance is an isolated event that could not reasonably be perceived as an endorsement of the organization's practices.

2. Judge Neely's stated position with respect to same sex marriage and her subsequent engagement of James A. Campbell, Kenneth J. Connelly, Douglas G. Wardlow of the Alliance Defending Freedom Organization, and her affiliation with the Alliance Defending Freedom Organization, 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 *Amended 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 28 day of August, 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, Patrick Dixon, do hereby certify that on the 28 day of August, 2015, I served the above and foregoing ***Amended Notice of Commencement of Formal Proceedings*** 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. 90th Street
Scottsdale, Arizona 85260

VIA 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

EXHIBIT 37

**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)	
Ninth Judicial District)	
Pinedale, Sublette County)	
)	

**THE HONORABLE RUTH NEELY'S MOTION TO DISMISS THE NEW CLAIMS IN
THE COMMISSION'S AMENDED NOTICE OF COMMENCEMENT OF FORMAL
PROCEEDINGS**

The Honorable Ruth Neely respectfully requests that the Commission dismiss the new claims in the Amended Notice of Commencement of Formal Proceedings ("Amended Notice")—that is, the claims that Judge Neely violated Rules 2.4 and 3.6 of the Wyoming Code of Judicial Conduct by her choice of counsel in this matter.¹

By adding these claims to the Amended Notice, the Commission on Judicial Conduct and Ethics (the "Commission") threatens fundamental constitutional rights, including the rights of citizens to hire counsel of their choosing, to associate with groups of their choosing, and to live consistent with their sincerely held religious convictions. After the Commission initiated these

¹ Concurrent with this Motion to Dismiss, Respondent files her Verified Answer to the Amended Notice. Because the governing rules do not clearly explain the relationship between a Motion to Dismiss and a Verified Answer, Respondent is exercising caution and filing her Verified Answer now, even though the Commission has yet to rule on this Motion to Dismiss. It is Respondent's intent that if there is a conflict between her filing of the Motion to Dismiss and the Verified Answer, the Motion to Dismiss should take precedence, and that she will file an updated Verified Answer once the Commission resolves her Motion to Dismiss.

proceedings alleging that Judge Ruth Neely violated the Code of Judicial Conduct by expressing her religious beliefs about marriage and her inability to perform same-sex marriages, Judge Neely retained Herb Doby and Alliance Defending Freedom (“ADF”) as counsel to defend her. ADF is a nationwide, nonprofit, nonpartisan legal organization that specializes in constitutional law, provides free legal defense in civil-rights cases, and has won four cases before the United States Supreme Court over the last five years alone.²

After Judge Neely made her selection of counsel, the Commission amended its Notice of Commencement of Formal Proceedings to allege that Judge Neely violated the Code of Judicial Conduct merely by retaining ADF as her legal representative. While all the claims in the Amended Notice lack merit and violate Judge Neely’s constitutional rights, the new claims attack Judge Neely’s chosen means of defending herself in this matter and therefore jeopardize the fairness of these proceedings moving forward. As a result, these new claims necessitate this motion and require swift action from this tribunal.

Standard

A complaint must be dismissed when, accepting “the facts stated in the complaint as true and view[ing] them in the light most favorable to the plaintiff,” the relief may not be granted. *Accelerated Receivable Solutions v. Hauf*, 2015 WY 71, ¶ 10, 350 P.3d 731, 734 (Wyo. 2015).³ Furthermore, “a plaintiff’s obligation to provide the ‘grounds’ of his ‘entitle[ment] to relief’

² See e.g. *Reed v. Town of Gilbert, Ariz.*, 135 S. Ct. 2218 (2015) (unanimously upholding ADF’s client’s free-speech rights); *Burwell v. Hobby Lobby Stores, Inc.*, 134 S. Ct. 2751, 2759 (2014) (striking down federal burden’s on ADF’s client’s free-exercise rights); *Town of Greece v. Galloway*, 134 S. Ct. 1811 (2014) (upholding a legislative prayer policy promulgated by a town represented by ADF); *Arizona Christian Sch. Tuition Org. v. Winn*, 131 S. Ct. 1436 (2011) (upholding a state’s tuition tax credit program defended by a faith-based tuition organization represented by ADF).

³ In applying this standard, Judge Neely does not admit any facts or conclusions pled by the Commission, but deems those facts to be true for purposes of this motion only.

requires more than labels and conclusions, and a formulaic recitation of the elements of a cause of action will not do.” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007).⁴

Argument

I. The Rule 2.4 and 3.6 Claims Should be Dismissed Because They Violate Judge Neely’s Constitutional Rights to Counsel, to Associate, and to Exercise her Religion.

a. The Rule 2.4 and 3.6 Claims Violate Judge Neely’s Right to Counsel.

For over 100 years, courts have recognized that the Constitution protects the right to counsel of one’s choosing in both criminal and civil litigation—indeed, this right is protected by many constitutional provisions, including the First Amendment.⁵ As the Tenth Circuit has summarized, “[t]he right to retain and consult with an attorney . . . implicates . . . clearly established First Amendment rights of association and free speech.” *DeLoach v. Bevers*, 922 F.2d 618, 620 (10th Cir. 1990).

This right to counsel extends beyond retaining an attorney. It protects the right to retain the attorney a party wants. “The right to counsel, safeguarded by the constitutional guarantee of due process of law, includes the right to choose the lawyer who will provide that representation.” *McCuin v. Texas Power & Light Co.*, 714 F.2d 1255, 1257 (5th Cir. 1983). And the government cannot override that choice unless it establishes “compelling reasons” to do so. *Id.* at 1263.

⁴ “Because the Wyoming Rules of Civil Procedure are patterned after the Federal Rules of Civil Procedure, federal court interpretations of their rules are highly persuasive in [Wyoming courts’] interpretation of the corresponding Wyoming rules.” *Lamar Outdoor Advert. v. Farmers Co-Op Oil Co. of Sheridan*, 2009 WY 112, ¶ 12, 215 P.3d 296, 301 (Wyo. 2009); see also *Graus v. OK Investments, Inc.*, 2014 WY 166, ¶ 14, 342 P.3d 365, 369 (Wyo. 2014) (similar).

⁵ *Christopher v. Harbury*, 536 U.S. 403, 415 n.12 (2002) (identifying cases that ground the right to access courts and the right to counsel in Article IV Privileges and Immunities Clause, First Amendment Petition Clause, Fifth Amendment Due Process Clause, and Fourteenth Amendment Equal Protection and Due Process Clauses); *United Mine Workers v. Illinois Bar Ass’n*, 389 U.S. 217, 221-22 (1967) (grounding the right to counsel in “the freedom of speech, assembly, and petition guaranteed by the First and Fourteenth Amendments”); *Johnson v. City of Cincinnati*, 310 F.3d 484, 501 (6th Cir. 2002) (grounding the right to counsel in the right to intimate association in the Fourteenth Amendment Due Process Clause).

Moreover, in this case, the right to counsel has particular force because constitutional defenses are at issue. In a long line of decisions, the United States Supreme Court has established the First Amendment right of groups to provide free legal defense vindicating civil rights and the corresponding constitutional right of individuals to employ these groups' legal service.⁶ "Underlying [these cases] was the Court's concern that [members of the public] receive information regarding their legal rights and the means of effectuating them." *Bates v. State Bar of Ariz.*, 433 U.S. 350, 376 n.32 (1977). "This concern applies with at least as much force to aggrieved individuals as it does to groups." *Id.*

As the Supreme Court said when invalidating a constraint on employing an ACLU attorney, restrictions on groups that engage "in the defense of unpopular causes and unpopular defendants" and that represent "individuals in litigation" defining "the scope of constitutional protection" must overcome "exacting scrutiny." *Primus*, 436 U.S. at 427-28, 432 (concluding that a reprimand of an ACLU attorney by the Board of Commissioners on Grievances and Discipline of the Supreme Court of South Carolina violated the First Amendment).

Under these principles, the Commission's Rule 2.4 and 3.6 claims must also overcome exacting scrutiny because they fault Judge Neely for her "engagement of . . . the Alliance Defending Freedom Organization." (Amended Notice, ¶ B.2). In other words, the Commission alleges that Judge Neely violated ethical rules by retaining ADF as counsel, and through these claims, the Commission tries to sever Judge Neely's attorney-client relationship with ADF. But

⁶ See, e.g., *In re Primus*, 436 U.S. 412, 414 (1978) (protecting the ACLU's right to give legal advice and solicit for lawsuits); *United Mine Workers*, 389 U.S. at 221-22 (1967) (protecting union members' right to hire an attorney to collectively assist them in asserting their legal claims); *NAACP v. Button*, 371 U.S. 415, 429-30 (1963) (protecting the NAACP's right to advise litigants to seek and pay for assistance of certain attorneys). See also *Owens v. Rush*, 654 F.2d 1370, 1379 (10th Cir. 1981) (protecting the right to assist in "litigation vindicating civil rights," to "attend[] meetings on necessary legal steps," and to "associat[e] for the purpose of assisting persons seeking legal redress").

just like the ACLU and NAACP, ADF is a nonprofit legal advocacy group that seeks to protect constitutional rights through free legal representation. By demanding that Judge Neely stop receiving this representation, the Commission's Rule 2.4 and 3.6 claims not only impair Judge Neely's First Amendment right to select her counsel, they also impair her First Amendment right to participate in collective legal action that seeks to vindicate constitutional freedoms.

Even worse, the Commission's Rule 2.4 and 3.6 claims smack of bad faith, for the Commission dragged Judge Neely into this legal proceeding and now tries to eliminate her legal defense. Without ADF, Judge Neely may be unable to obtain free civil-rights legal defense from another organization, much less one with significant constitutional expertise. Indeed, not many (if any) constitutional-law specialists offer the free legal defense that ADF provides, particularly in Wyoming's relatively small legal community. So if the Rule 2.4 and 3.6 claims succeeded, they would weaken, if not extinguish, Judge Neely's legal defense.

The harm inflicted by the Commission's Rule 2.4 and 3.6 claims are not confined to Judge Neely. Under the Commission's logic, no judge could hire a legal organization that advocates against the state's chosen ideology. The state could thus target any legal group it dislikes in an effort to hinder its mission and prevent its clients from vindicating their constitutional rights. Red states could target liberal groups like the ACLU, and blue states could target conservative groups like the NRA. But in the end, litigants' rights and our adversarial system of justice would lose. Thankfully, though, the Constitution does not permit this result, for it protects the right to offer and access civil-rights defense regardless of the "political or religious affiliation of the members of the group which invokes its shield, or . . . the truth, popularity, or social utility of the ideas and beliefs which are offered." *Button*, 371 U.S. at 444-45.

The chilling effect of the Commission's position is not limited to clients who retain nonprofit legal advocacy groups as their attorneys; it would also threaten the constitutional liberties of individuals who hire solo practitioners and private firms. In the Amended Notice, the Commission specifically references three of Judge Neely's counsel by name. (Amended Notice, ¶¶ A.9, B.2). Supposedly, Judge Neely cannot retain these attorneys because of the legal positions that they have advocated about same-sex marriage. (*Id.* at ¶ A.10). But crediting that claim would mean that neither could a judge retain Chief Justice John G. Roberts, or any of the three other United States Supreme Court Justices who, like him, dissented from the Supreme Court's recent same-sex marriage ruling in *Obergefell v. Hodges*, 135 S. Ct. 2584 (2015), should one of them step down from the bench and enter private practice. Yet the mere fact that an attorney has taken a legal position that the state dislikes does not deprive a judge of her right to retain that attorney as counsel. If the law were otherwise, a judge's right to choose not only nonprofit legal groups, but also countless attorneys in private practice would be infringed. Therefore, the Commission's claims seeking to remove Judge Neely's counsel are inherently suspect and deserve the strictest constitutional scrutiny.

b. The Rule 2.4 and 3.6 Claims Violate Judge Neely's Right to Freely Associate.

Besides attacking Judge Neely's right to counsel, the Rule 2.4 and 3.6 claims allege that she violated the Code of Judicial Conduct by her "affiliation with the Alliance Defending Freedom Organization." (Amended Notice, ¶ B.2). The Amended Notice does not specify how Judge Neely affiliated with ADF, but this motion will accept the Commission's vague allegation as true. Even so, this allegation still fails because the Commission cannot penalize Judge Neely for affiliating with ADF. That violates her First Amendment right to free association.

The First Amendment protects the right of citizens “to associate with others in pursuit of a wide variety of political, social, economic, educational, religious, and cultural ends.” *Roberts v. U.S. Jaycees*, 468 U.S. 609, 622 (1984). Thus, the government may not “impose penalties or withhold benefits from individuals because of their membership in a disfavored group” unless the government satisfies the most stringent form of constitutional review. *Id.* at 622-23.

In the legal context, this means that the state cannot deny an attorney “admission to the Bar solely because of his membership in an organization.” *Application of Stolar*, 401 U.S. 23, 28 (1971). Nor can the state bar judges from associating with political parties. *Republican Party of Minnesota v. White*, 416 F.3d 738, 754 (8th Cir. 2005) (invalidating Minnesota judicial canon barring partisan activities). Because it is well established that the state cannot bar judicial association with a political party—the most partisan entity imaginable—it necessarily follows that the Commission cannot forbid Judge Neely from associating with a nonpartisan public-interest group like ADF.

To be sure, First Amendment protections do not allow judges to do anything they please. The state can mandate that judges recuse themselves in particular cases where they lack impartiality. *Id.* at 755. Yet the Commission does not seek case-by-case recusal, but a blanket removal of Judge Neely for associating with a nonpartisan legal organization.

Once again, the Commission’s claims reach too far and impinge too much on personal liberty. If those claims are allowed to proceed, the government could seek to remove judges for associating with any group (like the Catholic Church, the Mormon Church, various Muslim sects, local Boy Scout troops, and even the Republican Party) that believes in, or advocates for, the time-honored understanding of marriage as a relationship that unites a man and a woman for life and thereby connects children to both their mother and father. Even worse, the Commission’s

logic empowers the Commission to penalize judges for associating with *any* group whose views or advocacy it dislikes. Such unchecked power is subject to abuse even against those who currently wield it.

The Commission would do better to respect a diversity of associations and beliefs than to punish judges for affiliating with particular groups. “The freedom to associate applies” not only “to the beliefs we share,” but also “to those we consider reprehensible.” *Gilmore v. City of Montgomery*, 417 U.S. 556, 575 (1974). Accordingly, protecting that right “tends to produce the diversity of opinion that oils the machinery of democratic government and insures peaceful, orderly change.” *Id.* Because the Commission’s Rule 2.4 and 3.6 claims imperil this freedom, they are subject to strict scrutiny.

c. The Rule 2.4 and 3.6 Claims Create an Impermissible Religious Test and Violate Judge Neely’s Right to Exercise Her Religious Beliefs.

The United States and Wyoming Constitutions forbid the Commission’s newfound prohibition on judges’ engaging legal counsel that hold certain religious beliefs about marriage. In no uncertain terms, the Wyoming Constitution states that “no person shall be rendered incompetent to hold any office of trust . . . because of his opinion on any matter of religious belief whatever.” Wyo. Const. art. I, § 18; *see also* U.S. Const. art. VI, cl. 3 (“[N]o religious Test shall ever be required as a Qualification to any Office or public Trust under the United States.”).⁷ Here, the Commission maintains that a judge must be removed if she affiliates with an organization that holds and advocates for particular religious views about marriage. Yet the Constitution permits no such religious test for judges.

⁷ The Commission cannot successfully argue that the absence of a right to government employment means that there is no burden on Judge Neely’s constitutional rights. In a case such as this, “[t]he fact . . . that a person is not compelled to hold public office cannot possibly be an excuse for barring him from office by state-imposed criteria forbidden by the Constitution.” *Torcaso v. Watkins*, 367 U.S. 488, 495-96 (1961).

In *Feminist Women's Health Center v. Codispoti*, 69 F.3d 399 (9th Cir. 1995), a party sought recusal of a federal circuit judge based on his affiliation with the Catholic Church and its religious belief about abortion. The motion to recuse was denied because it would impose a religious test on judges. As the published opinion explained: "The plaintiffs seek to qualify the office of federal judge with a proviso: no judge with religious beliefs condemning abortion may function in abortion cases. The sphere of action of these judges is limited and reduced. The proviso effectively imposes a religious test on the federal judiciary." *Id.* at 401. Notably, the plaintiffs in that case sought only recusal from a particular case, and not "disqualification . . . from all judicial office." *Id.* at 400. The constitutional concerns are thus far greater here, for while the plaintiffs there sought a religious test that would have *curtailed* a judge's role, the Commission here seeks a religious test that would *eliminate* a judge's position.

Similarly, in *Paulson v. Abdelnour*, 145 Cal. App. 4th 400, 433, 51 Cal. Rptr. 3d 575, 600 (2006), the plaintiffs claimed that the City of San Diego violated the Establishment Clause by retaining an attorney affiliated with a faith-based public-interest legal organization. The California Court of Appeals rejected the claim, explaining that "we are troubled by the proposition that a government entity or any individual appearing as an attorney before a court, on any issue, may first be screened for their sectarian or nonsectarian background or motives before being allowed to appear as an advocate." The very inquiry into such a claim "lead[s] the judicial system into claims of hostility to religion and potential violations of the proviso that no religious test may ever be required of any individual to an office or public trust. (U.S. Const., art. VI, clause 3.)" *Id.*

Not only do the constitutional prohibitions on religious tests forbid the Commission's Rule 2.4 and 3.6 claims, the Free Exercise and Establishment Clause provisions of the United

States and Wyoming Constitutions do so as well. Those constitutional protections unequivocally prohibit the Commission from targeting religious beliefs. For decades, the United States Supreme Court has consistently affirmed that the Establishment Clause forbids state action that “disapprove[s],” “inhibit[s],” or evinces “hostility” toward religion. *See Edwards v. Aguillard*, 482 U.S. 578, 585 (1987) (forbidding “disapprov[al]” of religion); *Lynch v. Donnelly*, 465 U.S. 668, 673 (1984) (“affirmatively mandat[ing] accommodation, not merely tolerance, of all religions, and forbid[ing] hostility toward any”); *Comm. for Pub. Educ. & Religious Liberty v. Nyquist*, 413 U.S. 756, 788 (1973) (forbidding laws that “inhibi[t]” religion). State action must be careful not to “foster[] a pervasive bias or hostility to religion, which could undermine the very neutrality the Establishment Clause requires.” *Rosenberger v. Rector & Visitors of Univ. of Virginia*, 515 U.S. 819, 846 (1995). In addition, free-exercise principles similarly forbid the government from targeting religious beliefs. *Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah*, 508 U.S. 520, 531-32 (1993) (striking down a law that targeted a particular religious practice); *Emp’t Div., Dep’t of Human Res. of Or. v. Smith*, 494 U.S. 872, 877 (1990) (explaining that the government cannot impose “special disabilities on the basis of religious views”).

The Commission’s Rule 2.4 and 3.6 claims contravene these constitutional principles. The Commission has alleged that a judge violates the Code of Judicial Conduct merely by retaining a faith-based legal group that exists “to keep the doors open for the Gospel by advocating for religious liberty, the sanctity of life, and marriage and family.” (Amended Notice, ¶ A.10). Such unabashed hostility toward, and targeting of, religion runs directly counter to the religious protections guaranteed in the federal and state constitution.

II. The Commission's Rule 2.4 and 3.6 Claims Fail Strict Scrutiny.

Government action that burden foundational constitutional rights “must advance interests of the highest order and must be narrowly tailored in pursuit of those interests.” *Church of the Lukumi Babalu Aye, Inc.*, 508 U.S. at 546 (noting that “the compelling interest standard that we apply . . . is not watered down but really means what it says”) (quotation marks and alterations omitted). The compelling-interest test “look[s] beyond broadly formulated interests justifying the general applicability of government mandates” and determines whether strict scrutiny “is satisfied through application of the challenged law ‘to the person’—the particular claimant whose sincere exercise of religion is being substantially burdened.” *Gonzales v. O Centro Espirita Beneficente Uniao do Vegetal*, 546 U.S. 418, 430-31 (2006); see also *Burwell*, 134 S. Ct. at 2779. Thus, the relevant government interest here is not a generic interest in the integrity of the judiciary; it is the Commission’s specific interest in prohibiting Judge Neely from retaining ADF as her counsel. But the Commission has no compelling interest in intruding itself into Judge Neely’s choice of counsel in this way.

Neither can the Commission satisfy the narrow-tailoring requirement of strict-scrutiny analysis. The Commission has a number of other means to pursue its asserted interests in maintaining judicial integrity without violating Judge Neely’s constitutional rights. For example, the Commission could require judges to recuse themselves from matters that involve legal organizations with whom the judges are affiliated. Notably, Code of Judicial Conduct Rule 2.11 already empowers the Commission to require recusal under these circumstances. And a lack of

narrow tailoring exists where the government can adequately protect its interests through already-existing means.⁸ Accordingly, the Commission cannot satisfy strict scrutiny here.

III. The Commission Fails to State a Claim under Rule 2.4 or 3.6.

In addition to the constitutional violations discussed above, the Commission has also failed to state a claim under Rule 2.4 or 3.6. Rule 2.4 prohibits a judge from being “swayed by public clamor or fear of criticism” or permitting “family, social, political, financial, or other interests or relationships to influence [her] judicial conduct or judgment.” But in its Amended Notice, the Commission has not pled any specific facts that allege a violation of this rule. *See Twombly*, 550 U.S. at 555. Moreover, the Amended Notice also fails to plead sufficient facts that, if proven, would establish a violation of Rule 3.6. A mere allegation of discriminatory association is not enough. “[A] plaintiff’s obligation to provide the ‘grounds’ of his ‘entitle[ment] to relief’ requires more than labels and conclusions, and a formulaic recitation of the elements of a cause of action will not do.” *Id.* The Commission’s allegations do not rise above the mere recitation of the elements of a claim under Rule 3.6.

Furthermore, there is no indication that Rule 3.6 was intended to implicate a judge’s choice of counsel. The comments to Rule 3.6 make it clear that the Rule is primarily concerned with a judge’s *membership* (ADF does not have members) in an invidiously discriminatory organization that could impair public confidence in the integrity and impartiality of the

⁸ *See, e.g., Boardley v. U.S. Dep’t of Interior*, 615 F.3d 508, 524 (D.C. Cir. 2010) (finding that an “all-encompassing” speech restriction was not narrowly tailored where “the [government] could simply prohibit and punish conduct that . . . creates security or accessibility hazards”); *Berger v. City of Seattle*, 569 F.3d 1029, 1043 (9th Cir. 2009) (en banc) (finding that a speech restriction was not narrowly tailored where the government could have simply “enforce[d] its existing rules against those who actually exhibit unwanted behavior”); *Bery v. City of New York*, 97 F.3d 689, 698 (2d Cir. 1996) (finding that a speech restriction was not narrowly tailored where “[t]here exist[ed] specific sections of the Administrative Code which . . . already achieve the[] [government’s] ends without such a drastic effect”).

judiciary.⁹ There is no indication that Rule 3.6 was crafted to prohibit a judge from retaining the ACLU, NAACP, ADF, or any other nonprofit public-interest legal group based on the nature of its legal advocacy on hotly contested issues.

Finally, it is untenable to suggest, as the Commission does, that ADF engages in “invidious discrimination” by championing the idea that marriage is the unique, presumptively procreative relationship that unites one man and one woman for life. (Amended Notice, ¶¶ A.10, B.1). In fact, the Supreme Court’s recent decision mandating same-sex marriage nationwide forecloses that baseless argument by recognizing that “[t]his view [of marriage] long has been held—and continues to be held—in good faith by reasonable and sincere people here and throughout the world.” *Obergefell*, 135 S. Ct. at 2594; *see also id.* at 2602 (“Many who deem same-sex marriage to be wrong reach that conclusion based on *decent and honorable religious or philosophical premises*, and neither they nor their beliefs are disparaged here.”). Thus, the Commission’s attempt to transform this good-faith and reasonable view of marriage into irrational discrimination must be summarily rejected.

The Commission has thus failed to state a claim that Judge Neely violated Rule 2.4 or 3.6.

Conclusion

For the foregoing reasons, the Presiding Officer of the Adjudicatory Panel should dismiss the Commission’s claims under Rule 2.4 and 3.6.

⁹ Even if ADF were a religious membership organization, Comment 4 to Rule 3.6 provides that “[a] judge’s membership in a religious organization . . . is not a violation of th[e] Rule.”

Dated: September 16, 2015


Kenneth J. Connelly

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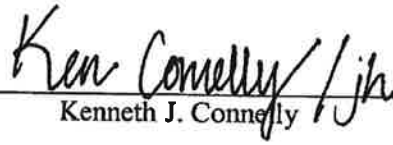
Attorneys for Respondent
**Out-of-State Certification Obtained*

CERTIFICATE OF SERVICE

I hereby certify that on the 16th day of September, 2015, I served the foregoing Motion by electronic mail on the following:

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

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



Kenneth J. Connelly

EXHIBIT 38

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)

NOTICE OF CONFESSION OF MOTION TO DISMISS

WHEREAS, on or about August 28, 2015 the Commission on Judicial Conduct and Ethics filed an *Amended Notice of Commencement of Formal Proceedings*; and said Amended Notice set forth additional factual allegations in Paragraph 10 and the footnote to Paragraph 10 and alleged the additional violation of Rule 2.4 and Canon III, Rule 3.6 of the Wyoming Code of Judicial Conduction;


WHEREAS on or about September 16, 2015 the Honorable Ruth Neely filed a motion to dismiss the Amended Notice; and

WHEREAS, the parties are in agreement that the Commission on Judicial Conduct and Ethics may withdraw these additional allegations.

COMES NOW the undersigned counsel for the Commission on Judicial Conduct and Ethics and hereby concedes THE HONORABLE RUTH NEELY'S MOTION TO DISMISS THE NEW CLAIMS IN THE COMMISSION'S AMENDED NOTICE OF COMMENCEMENT OF FORMAL PROCEEDINGS. In so doing, counsel represents to the Hearing Officer that the parties have conferred and are in agreement that the matter may proceed to disposition upon the

Commission's *Notice of Commencement of Formal Proceedings*. Accordingly, upon entry of the ORDER DISMISSING AMENDED CLAIMS, Judge Neely will file an Amended Answer to the Notice of Commencement of Formal Proceedings.

DATED this 28 day of September, 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, Patrick Dixon, do hereby certify that on the 28 day of September, 2015, I served the above and foregoing *Notice of Confession of Motion to Dismiss* 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

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 EMAIL kconnelly@adflegal.org

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

VIA U.S. MAIL

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

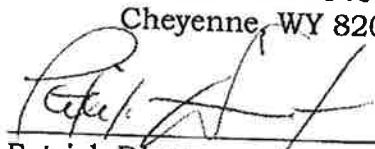

Patrick Dixon

EXHIBIT 39

BEFORE THE COMMISSION ON JUDICIAL CONDUCT AND ETHICS

STATE OF WYOMING

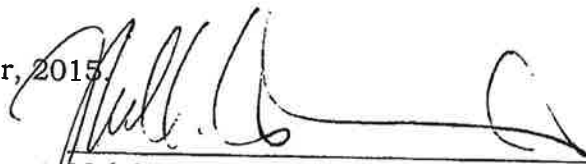
An inquiry concerning)
The Honorable Ruth Neely) No. 2014-27
Municipal Court Judge and)
Circuit Court Magistrate)
Ninth Judicial District)
Pinedale, Sublette County)

ORDER DISMISSING AMENDED CLAIMS

The matter having come on for hearing upon the motion of counsel for Judge Neely, and being advised that the parties are in substantial agreement with regard to the motion, the Hearing Officer hereby finds as follows:

NOW THEREFORE IT IS ORDERED that THE HONORABLE RUTH NEELY'S MOTION TO DISMISS THE NEW CLAIMS IN THE COMMISSION'S AMENDED NOTICE OF COMMENCEMENT OF FORMAL PROCEEDINGS be and hereby is granted, that the new claims asserted in the August 28, 2015 AMENDED NOTICE OF COMMENCEMENT OF FORMAL PROCEEDINGS are dismissed and that the matter shall proceed to disposition upon the Commission's original NOTICE OF COMMENCEMENT OF FORMAL PROCEEDINGS.

DATED this 5th day of October, 2015.



Melvin C. Orchard, III
Presiding Officer/Hearing Officer

cc: Patrick Dixon
Herbert K. Doby
Kenneth J. Connelly
Wendy Soto, Executive Director

EXHIBIT 40

**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)	
Ninth Judicial District)	
Pinedale, Sublette County)	

**VERIFIED AMENDED ANSWER TO NOTICE OF
COMMENCEMENT OF FORMAL PROCEEDINGS**

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 30th 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

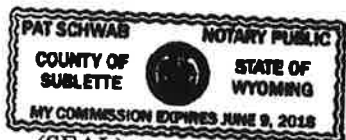
COUNTY OF Sublette

)
) ss
)

Subscribed and sworn to me this 30th day of September, 2015.

By RUTH NEELY

Pat Schwab
Notary Public



(SEAL)

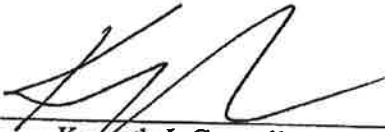
My Commission Expires: 6-9-18

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.
Dixon & Dixon, LLP
104 South Wolcott Street, Suite 600
Casper, WY 82601
pdixn@aol.com

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



Kenneth J. Connelly

EXHIBIT 41

EQUAL MARRIAGE RIGHTS FOR ALL

[Adopted at the Twenty-fifth General Synod on July 4, 2005]

WHEREAS the Bible affirms and celebrates human expressions of love and partnership, calling us to live out fully that gift of God in responsible, faithful, committed relationships that recognize and respect the image of God in all people; and

WHEREAS the life and example of Jesus of Nazareth provides a model of radically inclusive love and abundant welcome for all; and

WHEREAS we proclaim ourselves to be listening to the voice of a Still Speaking God at that at all times in human history there is always yet more light and truth to break forth from God's holy word; and

WHEREAS many UCC pastors and congregations have held commitment services for gay and lesbian couples for some time, consistent with the call to loving, long-term committed relationships and to nurture family life; and

WHEREAS recognition of marriage carries with it significant access to institutional support, rights and benefits; and

WHEREAS children of families headed by same-gender couples should receive all legal rights and protections; and

WHEREAS legislation to ban recognition of same-gender marriages further undermine the civil liberties of gay and lesbian couples and contributes to a climate of misunderstanding and polarization, increasing hostility against gays and lesbians; and

WHEREAS a Constitutional Amendment has been introduced to this Congress to limit marriage to "only the union of a man and a woman"; and

WHEREAS equal marriage rights for couples regardless of gender is an issue deserving of serious, faithful discussion by people of faith, taking into consideration the long, Council of the United Church of Christ in April, 2004 called the church to action and dialogue on marriage;

THEREFORE LET IT BE RESOLVED, that the Twenty-fifth General Synod of the United Church of Christ affirms equal marriage rights for couples regardless of gender and declares that the government should not interfere with couples regardless of gender who choose to marry and share fully and equally in the rights, responsibilities and commitment of legally recognized marriage; and

LET IT BE FURTHER RESOLVED, that the Twenty-fifth General Synod of the United Church of Christ affirms equal access to the basic rights, institutional protections and quality of life conferred by the recognition of marriage; and

LET IT BE FURTHER RESOLVED, that the Twenty-fifth General Synod calls for an end to rhetoric that fuels hostility, misunderstanding, fear and hatred expressed toward gay, lesbian, bisexual and transgender persons; and

LET IT BE FURTHER RESOLVED, that the Officers of the United Church of Christ are called upon to communicate this resolution to local, state and national legislators, urging them to support equal marriage rights for couples regardless of gender.

In recognition that these resolutions may not reflect the views or current understanding of all bodies, and acknowledging the pain and struggle their passage will engender within the gathered church, the General Synod encourages the following:

LET IT BE FURTHER RESOLVED, that the Twenty -fifth General Synod calls upon all settings of the United Church of Christ to engage in serious, respectful, and prayerful discussion of the covenantal relationship of marriage and equal marriage rights for couples regardless of gender, using the "God is still speaking, about Marriage" study and

discussion guide produced by Wider Church Ministries of the United Church of Christ (available online at UCC.org); and

LET IT BE FURTHER RESOLVED, that the Twenty-fifth General Synod calls upon congregations, after prayerful biblical, theological, and historical study, to consider adopting Wedding Policies that do not discriminate against couples based on gender; and

LET IT BE FINALLY RESOLVED, that the Twenty-fifth General Synod urges the congregations and individuals of the United Church of Christ to prayerfully consider and support local, state and national legislation to grant equal marriage rights to couples regardless of gender, and to work against legislation, including constitutional amendments, which denies civil marriage rights to couples based on gender.

Funding for the implementation of this Resolution will be made in accordance with the overall mandates of the affected agencies and the funds available.

NEELY AFFIDAVIT

**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)	

AFFIDAVIT OF RUTH NEELY

COMES NOW Affiant Ruth Neely, and presents the following sworn testimony:

1. My name is Ruth Neely. I have been a resident of Pinedale, Sublette County, Wyoming since 1977. I have personal knowledge of the facts stated herein.
2. Based on information publicly available from the United States Census Bureau, I am aware that, as of 2013, Pinedale had an approximate population of 1,977 people. Based on that same information, I am also aware that, as of 2013, Sublette County had an approximate population of 10,041 people.
3. I have been a municipal judge in Pinedale for approximately 21 years. I was originally appointed by Miriam Carlson in 1994. I was then appointed by Rose Skinner in 1998 and reappointed in 2002. I was also appointed by Steve Smith in 2006 and reappointed in 2010. I was then appointed by Bob Jones in 2014.
4. As Pinedale Municipal Judge, I hear all cases arising under the ordinances of Pinedale. Most of the cases that come before me involve traffic and parking violations, animal control, public intoxication, underage drinking, shoplifting, breach of the peace, general nuisances, and similar matters.

5. I have also served the community as a circuit court magistrate for approximately 14 years. I was originally appointed by then-County Court Judge John Crow in or around 2001 and was most recently reappointed in 2008 by Circuit Court Judge Curt Haws as a part-time magistrate with the authority to exercise the full array of powers permitted by Wyo. Rev. Stat. § 5-9-212.
6. Under Wyoming law, specifically Wyo. Rev. Stat. § 20-1-106, I have discretionary authority to perform marriages, but I do not have a duty or obligation to solemnize marriages.
7. As part of the power allotted to me as a circuit court magistrate, I have performed well over one hundred weddings.
8. The weddings that I have performed were held in Pinedale proper, Sublette County more broadly, and even throughout the rest of the state. I have thus often traveled far and wide to accommodate the wishes of the bride and groom. My general practice is that I do not set a flat fee for solemnizing a wedding; rather, I accept whatever the couple offers to give me as a fee. On occasion, when the wedding is a significant distance from my home, I will ask up front to be reimbursed for mileage costs. Attached to this affidavit as Exhibit 42 are true and accurate copies of pictures from weddings that I have performed in remote locations.
9. Before officiating at a wedding, I typically consult with the couple and attempt to tailor the ceremony to their wishes.
10. Attached to this affidavit as Exhibit 43 is a true and accurate copy of a document that I prepared listing all the weddings recorded in the Sublette County Clerk's office during 2013 and 2014. I prepared this list based on information that I acquired by personally reviewing all the marriage licenses recorded in that office for those years.

11. In all my years as Pinedale Municipal Judge and as a circuit court magistrate, I have never had a complaint filed against me with the Commission on Judicial Conduct and Ethics, been disciplined by the Commission, or been accused of harboring or exhibiting bias, prejudice, or partiality by anyone who has appeared before me in court.
12. In all my years as a judge, I have never had a bias or prejudice against, or otherwise treated unfairly, any individual who has appeared before me in my capacity as either a circuit court magistrate or a municipal judge.
13. My fairness or impartiality is not at all affected by the sexual orientation of a litigant who appears before me in a case. As a general matter, I do not know the sexual orientation of the parties who appear before me in court. Of course, I don't ask anything about the sexual orientation of parties; and the types of issues that I adjudicate—most of which, as I've indicated above, involve traffic and parking violations, animal control, public intoxication, general nuisances, and similar matters—don't require litigants to disclose facts about their sexual orientation. Nevertheless, even if I were aware of the sexual orientation of a particular litigant, it would not affect my judgment or compromise my impartiality.
14. When Judge Haws asked me to serve as a member of the Steering Committee on the Sublette County Drug Treatment Court, I accepted because I believed that the court and the program would help reduce crime in the community and would promote recovery and rehabilitation for those involved with drugs.
15. In 2008, I voluntarily served on the Select Committee to review the Wyoming Code of Judicial Conduct. I volunteered for this task because I am interested in and very serious about the topic of judicial ethics. Attached to this affidavit as Exhibit 44 is a true and accurate copy of

a letter that I received from then-Chief Justice Barton R. Voigt thanking me for my service on that committee.

16. I view each person who appears before me in court as an individual who is created in the image of God, and I treat each person fairly and impartially regardless of race, creed, color, religious belief, sexual orientation, or any other potentially identifying characteristic.

17. I truly care about all the people whose cases I preside over, and in deciding their cases, I seek not only to ensure that justice is achieved, but also to help those individuals better themselves and the local community.

18. I often order community service as part of the sentences that I issue because I believe that community service helps to recompense for the wrong done, helps to reform the individual, and helps to make the community a better place.

19. Particularly when dealing with juvenile offenders, I have always tried to conscientiously, thoughtfully, and creatively guide them through the court process so that they come out better citizens than when they entered.

20. In one case, I discovered that one of two young men appearing before me on a charge of underage possession of alcohol could not read. He was 19 years old at the time. I arranged for the offender who could read (Brad) to teach the one who could not (Trent), with the help of reading specialists who would work with them regularly while they were in jail serving out their sentences. Trent made considerable progress in learning to read over a period of four-and-a-half months. I released both Trent and Brad from jail prior to the time that their sentences were set to expire, and I did so on the condition that they continue to participate in the reading program. After this experience, Trent thanked me for forcing him to take the initiative that he needed to learn how to read. Attached to this affidavit as Exhibit 45 is a true and accurate copy of a story

that Trent wrote (with Brad's help) discussing my interactions with him and explaining the process of how he learned to read. Stories like this illustrate my passion for serving the community and for resolving cases in a manner that furthers the best interests and well-being of the individuals who appear before me.

21. I am a member of the Lutheran Church, Missouri Synod (LCMS)—a Christian denomination—and have been an active parishioner at my local congregation, Our Savior's Lutheran Church in Pinedale, for the past 38 years. I have been a Sunday School teacher for 36 of those years, a Vacation Bible School teacher for more than 10 years, and the church's Tone Chime Choir director for 24 years. I have also served as the church's trustee and financial secretary, and have assisted with church fundraising efforts on behalf of those less fortunate in the community. As a Christian and a member of the LCMS, I believe it to be part of my duty as a follower of Jesus Christ to use my talents to serve the community.

22. As a Christian and a member of the LCMS, I believe the teachings of the Bible and the doctrines of my denomination. I also seek to conform my conduct in all areas of my life to those teachings and doctrines.

23. One of the core teachings of my religion is that God instituted marriage as a sacred union that joins together one man and one woman. It is my sincerely held religious belief that if I were to perform a wedding that does not reflect this understanding of marriage, I would be violating the tenets of my faith and disobeying God.

24. When I perform a wedding ceremony, I am personally involved in that event. I indicate my approval and support for that union not only by my actions, but also by my words. For example, I often state my hope that the marriage will endure, encourage the couple to take their vows seriously, discuss the true nature of love, and explain that the wedding rings symbolize the

unity of the couple's relationship. Attached to this affidavit as Exhibit 46 is a true and accurate copy (with the exception of the fact that the couple's names have been removed) of the script that I read from during a wedding ceremony that I performed. That script is emblematic of what I typically say during the wedding ceremonies over which I preside.

25. Within a few weeks after the federal court in *Guzzo v. Mead* legalized same-sex marriage in Wyoming, which occurred in October 2014, I met with Judge Haws to let him know that it is my sincerely held religious belief that marriage is the union of one man and one woman, and that because of that belief, I would not be able to solemnize same-sex marriages. I sought guidance from him on how to exercise my discretionary authority to perform marriages now that same-sex marriage had become legal in Wyoming.

26. I reviewed all the marriage licenses recorded in the Sublette County Clerk's office since January of 2013. I completed that review on or about August 31, 2015. Based on my review of those licenses, I have concluded that there have only been two same-sex marriage licenses filed with the Sublette County Clerk's office.

27. To my knowledge, no same-sex marriages were solemnized in Pinedale until early December 2014. On December 5, 2014, Town Attorney Ralph "Ed" Wood (who is also a district court commissioner and a circuit court magistrate) performed a marriage ceremony for Krystal Suzanne Mansur and Caitlin Ann Baxley. On December 6, 2014, circuit court magistrate Steve Smith (who is also the former Mayor of Pinedale) performed a marriage ceremony for Kathy Anderson and Sharon Stevens. Attached to this affidavit as Exhibit 47 is a true and accurate copy of a Sublette Examiner Year in Review Photo that purports to depict that ceremony. These are the only same-sex marriages of which I'm aware that have been performed in Pinedale or Sublette County since same-sex marriage became legal in Wyoming.

28. There are many people authorized to solemnize marriages in Pinedale and Sublette County. In March 2015, I received from the Sublette County Circuit Court a list of the magistrates authorized to perform marriages. Attached to this affidavit as Exhibit 48 is a true and accurate copy of that list. It contains the names of six people. Subsequently, in October 2015, I confirmed the accuracy of that list.
29. On October 22, 2015, I spoke to Jean Hayward, Deputy Clerk of Court for the District Court of the Ninth Judicial District, within and for the County of Sublette. She informed me that there are three district court commissioners for Sublette County. They are Richard McKinnon, Ed Wood, and Judge Haws.
30. Currently, Judge Haws is also the Circuit Court Judge in Pinedale, and Judge Marv Tyler is the District Court Judge in Pinedale.
31. If I ever were to receive a request to perform a same-sex marriage, which has never happened, I would ensure that the couple received the services that they requested by very kindly giving them the names and phone numbers of other magistrates who could perform their wedding.
32. Although my religious beliefs about marriage prevent me from presiding over some weddings, those beliefs do not affect how I decide cases. Given the types of cases that come before me—most of which, as I've indicated above, involve traffic and parking violations, animal control, public intoxication, general nuisances, and similar matters—it is unlikely that a case would ever require me to recognize or afford rights based on a same-sex marriage. But if such a case were before me, I would unquestionably recognize that marriage and afford the litigant all the rights that flow from it.
33. I have never disputed the legality of same-sex marriage in Wyoming.

34. On Friday, December 5, 2014, I was attempting to hang Christmas lights outside my home. I was frustrated because the lights were tangled so I came inside to untangle them. At that time, I checked my cell phone and saw that I had missed a call from an unknown number. I almost immediately returned the call, as is my habit because unknown numbers are often from people attempting to reach me about official town work (given my position as Pinedale Municipal Judge).

35. Upon dialing the unknown number, I reached Ned Donovan. I identified myself, and Mr. Donovan informed me that he was the person who had called me. He told me that he was a reporter for the Pinedale Roundup and asked if I was excited to be able to start performing same-sex marriages.

36. I was distracted at the time, struggling to remove my bulky winter clothing and holding an armload of Christmas lights. I did not immediately recall Judge Haws's earlier guidance to refrain from commenting on the matter.

37. I reflexively and truthfully answered Mr. Donovan's question, telling him that my religious belief that marriage is the union of one man and one woman precludes me from officiating at same-sex weddings.

38. Mr. Donovan then proceeded to ask me more about my personal views regarding marriage.

39. During the remainder of that call, I told Mr. Donovan that other government officials in town were willing to perform same-sex marriages, that I had never been asked to perform one, and that I had never denied anyone anything.

40. I did not proactively seek to communicate my religious beliefs about marriage to the public. Mr. Donovan caught me off guard with his question, and I reflexively responded with the truth about my religious beliefs.
41. After the conversation with Mr. Donovan, I attempted to contact Judge Haws to tell him what transpired, but I was unable to reach him and had to leave a message on his cell phone.
42. Meanwhile, I suspected that Mr. Donovan had called me in order to stir up trouble in town, and that he may have known my religious beliefs beforehand and was attempting to expose them. I thus called Mr. Donovan back about twenty minutes after our first call and requested that he substitute the substance and content of my earlier comments with the following statement: "When law and religion conflict, choices have to be made. I have not yet been asked to perform a same-sex marriage." Mr. Donovan told me that he would check with some other people about my request and would let me know.
43. Mr. Donovan called me back a few hours later and attempted to ask more questions. He offered not to publish a story if I would state a willingness to perform same-sex marriages. But I would not solemnize same-sex marriages in exchange for Mr. Donovan's promised retraction. Indeed, I could not compromise my religious convictions in that way. So I repeatedly declined comment.
44. I spoke with Judge Haws at some point before Mr. Donovan published his article, which first appeared in print in the Sublette Examiner on December 9, 2014. Attached to this affidavit as Exhibit 49 is a true and accurate copy of that article. Judge Haws told me that we would talk again once the article was published.
45. On December 11, 2014, the Sublette Examiner published in its online edition the same article that it had run in its December 9, 2014 print edition, but the paper changed the title to

Pinedale judge will not marry same-sex couples. Attached to this affidavit as Exhibit 50 is a true and accurate copy of the article published in the December 11, 2014 online edition.

46. On December 11, 2014, a reporter with the Casper Star Tribune called and asked me to confirm the comments published in the Sublette Examiner. I declined comment numerous times. When the reporter called back later that same day, I again declined comment.

47. On December 23, 2014, Mr. Donovan published in the Sublette Examiner an op-ed entitled *Just Like a Journalist, a Judge Should be Impartial*. Attached to this affidavit as Exhibit 51 is a true and accurate copy of that article.

48. On January 5, 2015, I sent an email to Ronda Munger of the Wyoming Judicial Ethics Advisory Committee inquiring about my desire to seek guidance from the Committee. Attached to this affidavit as Exhibit 52 is a true and accurate copy of that email. On January 6, 2015, I requested an advisory opinion from the Wyoming Judicial Ethics Advisory Committee on whether I was required to perform same-sex marriages given my sincerely held religious beliefs about marriage. Attached to this affidavit as Exhibit 53 is a true and accurate copy of that request.

49. On January 15, 2015, I received an inquiry letter from the Commission regarding my response to Ned Donovan that expressed my religious beliefs about marriage. I met with Judge Haws that same day. I told Judge Haws that I had requested an opinion from the Judicial Ethics Advisory Committee and provided him with a copy of my letter. Because the Commission's investigation was pending at that time, Judge Haws decided to suspend me as a magistrate until the matter was resolved.

50. On January 29, 2015, Professor John Burman, the Chair of the Judicial Ethics Advisory Committee, responded to my January 6 letter seeking an advisory opinion. He thanked me for

requesting an opinion on what he identified as a “complex ethical issue,” but he concluded that the Advisory Committee was “prohibited from issuing an opinion” because the Commission had already brought proceedings against me. Attached to this affidavit as Exhibit 54 is a true and accurate copy of that letter from Dr. Burman.

51. On January 30, 2015, Mr. Donovan published in the Sublette Examiner an article entitled *A valedictory dispatch from our man in Pinedale*. Attached to this affidavit as Exhibit 55 is a true and accurate copy of that article.

52. I responded to the Commission’s inquiry letter on February 7, 2015. Attached to this affidavit as Exhibit 56 is a true and accurate copy of that response. In my letter, I informed the Commission that I had never been asked to perform a same-sex marriage and thus had never refused to do so. I also informed the Commission that I had sought an advisory opinion from the Judicial Ethics Advisory Committee, prior to my being aware of any action being contemplated by the Commission. I further stated that there had never been a complaint of any kind filed against me in any of my judicial capacities, and that I had never been accused of being biased or prejudiced in all my years of service. Finally, as requested by the Commission, I specifically addressed Rule 2.3, stating that “nothing I [had] done indicates bias or prejudice,” and that my “inability to solemnize same-sex unions does not arise from any prejudice or bias against people, but rather from my sincerely held religious beliefs about marriage.”

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FURTHER YOUR AFFIANT SAYETH NAUGHT.

Dated this 29th day of October, 2015


Ruth Neely

STATE OF WYOMING)
)SS
COUNTY OF SUBLETTE)

SUBSCRIBED AND SWORN before me this 29 day of October, 2015, by Ruth Neely.


Notary Public

My commission expires: 12-8-18

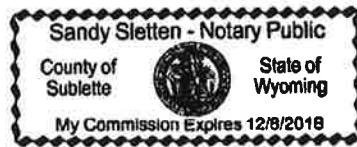


EXHIBIT 42





EXHIBIT 43

2013 Sublette County, WY Marriage Licenses

Date of marriage	Location	Officiant
01/03	Pinedale	Ken Grant
01/11	Jackson	Kirt Nyman
02/09	Big Piney	Terry Smith
02/16	Pinedale	Ruth Neely
03/09	Daniel	Jeff Goltz
03/15	Cora	Ruth Neely
03/23	Pinedale	Dennis Cramer
04/06	Pinedale	Loleen Denney
04/20	Big Piney	Shondel Bennett
04/22	Big Piney	Richard Kalber
05/04	Pinedale	Sally Simpson
05/18	Casper	Nancy Freudenthal
05/20	Pinedale	Richard McKinnon
05/23	Pinedale	Richard McKinnon
05/25	Pinedale	Sally Simpson
05/25	Cora	Jason Waliser
05/28	Pinedale	Ruth Neely
05/30	Boulder	Ruth Neely
06/01	Wilson	Thomas Jordan
06/04	Pinedale	Richard McKinnon
06/05	Pinedale	Richard McKinnon
06/08	Pinedale	Jim Silvey
06/10	Marbleton	Katherine Hetrick
06/15	Marbleton	Richard Kalber
06/29	Pinedale	Jim Silvey
07/04	Pinedale	Sally Simpson
07/08	Pinedale	Jami Anderson
07/13	Pinedale	Ruth Neely
07/13	Casper	Gary Monroe
07/20	Big Piney	Kirt Nyman
07/20	Pinedale	Jeff Goltz
07/27	Marbleton	Evelyn Schultz
08/03	Lander	Amanda Fry
08/03	Pinedale	Ruth Neely
08/03	Big Piney	Richard Kalber
08/07	Pinedale	Richard McKinnon
08/08	Pinedale	Curt Haws
08/10	Dubois	Pierre Sarthou
08/10	Pinedale	Jeff Goltz
08/10	Daniel	Steve Lemon
08/24	Bondurant	Shepard Hunphries
08/24	Bondurant	Kevin Campbell
08/24	Boulder	James Latta

2013 Sublette County, WY Marriage Licenses

08/24	Pinedale	Ralph Wood
08/26	Pinedale	Richard McKinnon
08/31	Pinedale	Marvin Tyler
09/01	Pinedale	Tony Portera
09/02	Casper	Andrew Snead
09/07	Pinedale	Betty Fear
09/07	Pinedale	Kurt Babcock
09/13	Boulder	Hugh Steele
09/13	Pinedale	Richard McKinnon
09/14	Jackson	Bert McNeel
09/14	Pinedale	Sally Simpson
09/14	Marbleton	Richard Kalber
09/14	Bondurant	Mark Barron
09/14	Pinedale	Ruth Neely
09/14	Pinedale	Jim Silvey
09/18	Pinedale	Duke Edwards
09/19	Pinedale	Richard McKinnon
09/28	Jackson	Nicholas Houfek
10/04	Big Piney	Richard Kalber
10/05	Boulder	Johnny Schmidt
10/18	Pinedale	Neal Stelting
10/19	Pinedale	Robert Vincent
10/28	Pinedale	Richard McKinnon
11/04	Pinedale	Richard McKinnon
11/21	Pinedale	Matt Murdock
11/26	Pinedale	Richard McKinnon
12/02	Pinedale	Ruth Neely
12/22	Pinedale	Ruth Neely

2014 Sublette County, WY Marriage Licenses

Date of marriage	Location	Officiant
01/02	Pinedale	Ruth Neely
01/24	Pinedale	Richard McKinnon
01/30	Pinedale	Ruth Neely
02/01	Pinedale	Evelyn Schultz
03/08	Pinedale	Ruth Neely
03/12	Pinedale	Richard McKinnon
03/19	Pinedale	Richard McKinnon
04/13	Pinedale	Sally Simpson
04/24	Pinedale	Ruth Neely
05/23	Pinedale	Richard McKinnon
05/24	Big Piney	Evelyn Schultz
06/12	Pinedale	Ruth Neely
06/14	Boulder	Dan Abernathy
06/14	Pinedale	Ruth Neely
06/20	Pinedale	James Morgareidge
06/21	Daniel	Donald Schroeder
07/15	Pinedale	Donna Cotner
07/19	Daniel	Ruth Neely
07/19	Mt. View	Annie Deckert
07/19	Boulder	Stephen Pitchford
07/27	Pinedale	Andrew Masters
07/26	Pinedale	Fr. Peter Mwaura
08/02	Pinedale	Dennis Cramer
08/02	Big Piney	Ann Phillips
08/15	Pinedale	Aaron Vincent
08/17	Pinedale	Jorden Gardner
08/22	Pinedale	Ruth Neely
08/23	Marbleton	Katherine Hetrick
08/24	Boulder	Mary Erickson
08/28	Pinedale	Ruth Neely
08/30	Jackson	Zane Meeks
08/30	Kelly	James Wallace
09/02	Pinedale	Ruth Neely
09/06	LaBarge	Ken Woodland
09/13	Elk Mountain	Jenette Hagan
09/13	Big Piney	Curt Haws
09/13	Pinedale	Dan Abernathy
09/19	Pinedale	James Silvey
09/19	Jackson	Bonnie Koeln
10/03	Pinedale	Richard McKinnon
10/06	Pinedale	Ruth Neely
10/11	Pinedale	David Gilman
10/27	Pinedale	Richard McKinnon
10/31	Pinedale	Ruth Neely
11/09	Pinedale	Ryan Linnemeyer
11/14	Pinedale	Rev. Carol White
11/15	Jackson	Thomas Jordan
11/24	Pinedale	Connor Moltzan
*12/05	Pinedale	Ralph "Ed" Wood

2014 Sublette County, WY Marriage Licenses

12/05	Pinedale	Ruth Neely
*12/06	Pinedale	Steven Smith
12/09	Pinedale	Richard McKinnon
12/13	Pinedale	Ruth Neely
12/15	Pinedale	Richard McKinnon
12/18	Pinedale	Curt Haws
12/30	Pinedale	Richard McKinnon
12/31	Pinedale	Ruth Neely
*same-sex marriages		

EXHIBIT 44

Supreme Court of Wyoming
Cheyenne, Wyoming 82002

BARTON R. VOIGT
CHIEF JUSTICE



2301 CAPITOL AVENUE
CHEYENNE, WY 82002
307-777-7573

December 1, 2008

To the Members of the Select Committee to Review the Code of Judicial Conduct

Re: Code of Judicial Conduct

Dear Committee Members:

I have received the Final Report of the Select Committee to Review the Code of Judicial Conduct. I anticipate taking the Report to the Board of Judicial Policy and Administration at its meeting this week in Casper. We will give the BIPA and the judges a little time to digest the report, and then it will go to the Court for approval and rule change. I do not foresee any difficulties in that regard.

I want to take this opportunity personally to thank you for your participation in the Committee and for the Committee's efficient attention to this project. I have had a few brief oral reports on the Committee's progress, so I am aware of the hard work that went into the review of the ABA Model Code and its amendment to fit Wyoming. This seemingly overwhelming project was completed in much less time than I had anticipated.

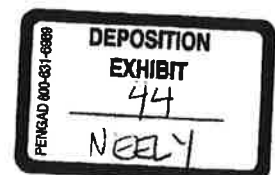
Thanks again, from the entire Court.

Sincerely,


Barton R. Voigt
Chief Justice

BRV/dh

848



**LIST OF SELECT COMMITTEE
TO REVIEW THE CODE OF JUDICIAL CONDUCT**

Mr. John M. Burman Director, Legal Services & Professor of Law University of Wyoming College of Law 1000 E. University Avenue, Dept. 3010 Laramie, WY 82071	Mr. Carl M. Williams Professor of Law & Ethics University of Wyoming College of Law 1000 E. University Avenue, Dept. 3010 Laramie, WY 82071
Mr. Timothy O. Bepler Timothy O. Bepler, PC P.O. Box 1040 Evanston, WY 82931	Honorable E. James Burke Wyoming Supreme Court 2301 Capitol Avenue Cheyenne, WY 82002
Honorable Robert A. Castor Circuit Judge, Second Judicial District 525 Grand Avenue Laramie, WY 82070	Ms. Bernadine Craft 1209 Hilltop Drive Rock Springs, WY 82901-5818
Honorable Timothy C. Day Circuit Judge, Ninth Judicial District P.O. Box 2906 Jackson, WY 83001	Mr. Sleeter Dover, Executive Director Wyoming State Bar P.O. Box 109 Cheyenne, WY 82003
Honorable Jeffrey A. Donnell District Judge, Second Judicial District 525 Grand Avenue Laramie, WY 82070	Honorable Jane Eakin Circuit Judge, Second Judicial District 415 West Pine Street Rawlins, WY 82301
Mr. Mark W. Gifford Gifford Law Offices P.O. Box 2508 Casper, WY 82602-2508	Honorable Gary P. Hartman Wyoming State Capitol Cheyenne, WY 82002
Ms. Teresa K. Jensen Corthell and King, PC P.O. Box 1147 Laramie, WY 82073-1147	Honorable Richard Lavery Municipal Court 1200 Main Street Evanston, WY 82930-3396
Ms. Rebecca A. Lewis, Bar Counsel Wyoming State Bar P.O. Box 109 Cheyenne, WY 82003	Honorable Ruth Neely Municipal Court P.O. Box 1386 Pinedale, WY 82941
Honorable Scott W. Skavdahl District Judge, Seventh Judicial District 200 N. Center Casper, WY 82601	Ms. Rhonda Sigrist Woodard Woodard & White, PC P.O. Box 329 Cheyenne, WY 82003-0329
Ms. Maren P. Schroeder, Law Student University of Wyoming College of Law 1000 E. University Avenue, Dept. 3010 Laramie, WY 82071	

EXHIBIT 45

A Bad Situation Turned Good

Twenty-Year-Old Man Learns to Read Because of Judge's and Bosses' Concern

By Trent Kynaston with the help of Brad Johnson

My name is Trent Kynaston, and this is the story of how I learned to read. When I was a young child, I was unable to hear or talk until I reached the age of five years. When I was five years old, doctors ran tubes in my ears in an attempt to break up the blockage that was making me deaf. That attempt was successful, and my hearing has been fine ever since. As I went through school, my teachers payed little to no attention to the fact that I could not read or write. While in school, I spent most of my time sleeping or drawing. While this was going on, I continually pulled an A average.

The next obstacle I encountered was being arrested for a person under twenty-one years of age in possession of alcohol. When my friend Brad Johnson and I went to court the first time, he was fined \$510.00 and sentenced to eighty hours of community service. I was fined \$210.00 and sentenced to forty hours of community service. Brad and I failed to complete our required community service. As a result, we were ordered to appear in court on a contempt of court charge. Brad and I decided to plead guilty.

Along with the six-month jail sentence, the judge ordered that I learn how to read with Brad's help while we were incarcerated. Ken Nishiyama, a certified tutor, was assigned through the court to assist Brad in the tutoring process. Brad and I started working on the reading program the day we were thrown in jail, which was July 14, 1997.

Approximately ten days into our sentence, we were informed that we were going to have an additional tutor aiding us with our reading studies. That tutor was Ms. Jonita Sommers, a certified teacher, who taught reading classes for Sublette County School District #9 in Big Piney, Wyoming. When Ms. Sommers visited for the first time, she informed us that my boss, Paul VonGontard, one of the three owners of the Rendezvous Ranch, had hired her to come in and tutor me.

Ms. Sommers received her Master's Degree while learning how to teach the Direct Instruction programs. While tutoring me, she used the following programs: 100 Lessons to Learn How to Read, Corrective Reading Decoding Strategies Books B1, B2, and C, Expressive Writing Books 1 and 2, and Corrective Spelling Through Morphographs. When Ms. Sommers started tutoring, she came to the jail almost every day so she could train Brad to use the programs correctly while she taught me to read. The programs are very structured and designed to teach a person to read in the least confusing and effective way possible, so Brad had to learn how to use the programs correctly. Ms. Sommers taught him the tricks of the trade. All of the programs have integrated material which made my learning very intense.

At the start of our jail term, we spent approximately one hour per day on our studies, and by the end of our incarceration, we were spending approximately 4.5 to 5 hours per day on them. The longer we were in jail, the more interest the jail staff started showing toward my learning to read. Scott Winer, in particular, showed more interest than anyone. He would bring in magazines that he thought would interest me, such as the Western Horseman, Old West and True West. Some of the other inmates also showed an interest in helping me with my work. If Brad had to do community service work, they would help me with my lessons. There were a few inmates who gave me a hard time about not knowing how to read, but most of them were very supportive.

After Brad and I got into the routine of doing our daily assignments, we began covering nearly one year of learning in approximately a month's time. Once I got far enough along to see the progress I was making, it made my desire to learn even stronger. In 4.5 months, I went from a prekindergarten reading level to a strong third grade reading level. Until I experienced it first hand, I thought that kind of progress in such a short period of time was impossible.

On November 25, we were called back to court by Judge Neely. We weren't really sure why we were being called to court, but we were hoping it was to get out of jail. Our hunch was right, and the judge released us on November 26, the day before Thanksgiving, with the following terms and conditions: We were to continue working on the reading program, continue meeting regularly with Ms. Sommers, make regular payments on our fines, and consume no alcohol.

When I visited with the different people involved with helping me learn to read, they had the following things to say: Brad said, "I wasn't sure at first if the judge's reading goals were obtainable. I thought I would be in jail forever. After we got far enough along, I could see the progress we were making, and then I knew that those goals were realistic."

Jonita said, "After visiting with Trent, learning he wanted to learn to read, and learning he could distinguish between different sounds, I knew he would learn to read. Teaching someone to read in the jail's lawyer room or exercise room was a new experience for me. All of the sheriff's staff was very cooperative and nice, so it was a good experience."

Brad and I have been out of jail for over a month now. We are continuing to work on my reading program and meet with Mr. Sommers approximately four times a week. I am working the Rendezvous Ranch again, and Brad is working for Nabors Drilling U.S.A., Inc. We will no longer be on probation after January 10, 1998, but we have every intention of continuing with my reading program on our own.

As I mentioned before, I'm now reading at a third grade level, but I hope to reach a high school level eventually. Once I obtain a reading level satisfactory to me, I would like to get my G.E.D. and possibly go as far as taking some college level courses. I am interested in landscape engineering. That would be what I would pursue if I did decide to go to college. Brad hopes to continue working on the rigs until fall, and then he wants to go to school. He hopes to major in civil engineering or geology. We both realize these goals are obtainable, and we intend to carry them out.

This was the story of how I learned to read, which will prove to be a very valuable skill for me in the future. I would first of all like to thank Brad Johnson for all of his help and encouragement. I would also like to thank Paul VonGontard, Bob Simms, and Bill Dudley for hiring Ms. Sommers to come in and tutor me. I feel Ms. Sommers' help was very valuable in my learning to read. I thank her very much. Most of all, I would like to thank Judge Ruth Neely for forcing me to take the initiative I needed to learn how to read. From this story, you can see anyone can learn to read at any age if you want to learn, put the effort into it and have the correct teaching techniques.

EXHIBIT 46

THE MARRIAGE CEREMONY OF

Dear friends and family, we are gathered here today for the purpose of witnessing a special event.

will soon enter into the most solemn and significant pledge of their lives: the covenant of marriage. It is a pledge that these two people will do everything in their power to help each other achieve their fullest possible development, and grow in their love for each other, forever. It is a promise to retain their individuality while sharing their spiritual, physical and material lives. and will soon exchange their vows of love for each other, and they will promise to love, honor, trust, and respect each other. These are things that we can all give in great measure, whether we are rich or poor in material possessions.

Who gives their blessing that this woman shall be married to this man?

Like many of our greatest pleasures in life, marriage is not tangible: we cannot touch it; we cannot hold it in our hands. Rather, we hold it in our minds, and in our hearts. But it is as real to us and heartwarming as other daily wonders: the rays of the sun filtering through the trees; the song of a robin on a summer morning; or the sound of water rushing in a stream. We need these things as surely as we need food and drink.

Just as with the pioneers who settled this great land that we are privileged to call home, these two people will begin the rest of their journey through life together full of hope, but also with some amount of fear and apprehension. They will have good times and bad times, but we hope and trust that the expressions of love and faithfulness that they exchange here today will prevail and keep them together to the end of their lives. and , may you always remember the vows you exchange today, so that

when those difficult and trying times do come to pass, your love and respect for each other will prevail and keep you together.

Marriage is not about being right or wrong; it is about compromise. Marriage is not about being secretive or closed minded; it is about open communication. Compromise and communication. Marriage is not easy, and no one other than the two of you can make it happy and beautiful. Remember that you are taking each other as you are today: young, strong and full of love and happiness. But also remember that you are taking each other with your individual faults, your shortcomings, your differing opinions. You will find that you may have to change some of your ideas and habits; but remember that it is love that brought you here, and love that will see you through.

"I Carry Your Heart With Me," read by Aunt Darlene

The vows that will soon be exchanged between have great meaning and substance, and are more valuable than mere words can express. Therefore, those who enter into the vows of matrimony are not to take them lightly, but they are to take them reverently and deliberately. Now is the time for each of you to consider the future and set aside any doubt you may have about your life together.

If any person can show just cause why this man and this woman may not be lawfully married, let him speak now or else forever after hold his peace. And if either of you knows any reason why you may not be united in lawful marriage, you shall say so now.

do you wish to have to be your wife, to live together in the covenant of marriage? Do you promise to love her, comfort her, honor her, and be with her in sickness and in health, and forsaking all others, keep you only unto her as long as you both shall live?

do you wish to have to be your husband, to live together in

the covenant of marriage? Do you promise to love him, comfort him, honor him, and be with him in sickness and in health, and forsaking all others, keep you only unto him as long as you both shall live?

Individual vows

Now _____ repeat after me, saying these words to _____ as you do:
I _____ take you _____ to be my beloved wife, to share with you all of my tomorrows from this day forward; for better, for worse, for richer, for poorer, in sickness and in health, to love and to cherish, to respect and sustain, until death do us part.

And _____ repeat after me, saying these words to _____ as you do: I _____ take you _____ to be my beloved husband, to share with you all of my tomorrows from this day forward; for better, for worse, for richer, for poorer, in sickness and in health, to love and to cherish, to respect and sustain, until death do us part.

The ring is a symbol of unity. It is a continuous circle with no beginning and no end. In marriage, it signifies the endless and continuous love that you have, each for the other. And now, as a symbol of your unity and love, _____ you may take your ring, place it on _____ finger, and as you do, say "With this ring I thee wed. Please wear it as a symbol of my unending love for you and the giving that will last a lifetime."

And _____, you may take your ring, place it on _____ finger, and as you do, say "With this ring I thee wed. Please wear it as a symbol of my unending love for you and the giving that will last a lifetime."

Please join hands.



The Hands Ceremony

Please face each other and take each other's hands, so that you may see the gift that they are to you. These are the hands of your

best friend, young and strong, and full of love for you. They are holding yours on your wedding day as you promise to love each other today, tomorrow, forever. These are the hands that will work alongside yours as together you build your future.

These are the hands that will passionately love you and cherish you through the years; and with the slightest touch will comfort you as no one else can. These are the hands that will hold you when fear or grief overcomes you. These are the hands that will countless times wipe the tears from your eyes - tears of sorrow, and tears of joy.

These are the hands that will tenderly hold your children, the hands that will join your family as one. These are the hands that will give you strength when you need it, support and encouragement to pursue your dreams, and comfort through difficult times.

These are the hands that, even when wrinkled with age, will still be reaching for yours, still giving you the same unspoken tenderness with just a touch.

These are the hands of love.

you have spoken your vows of love and commitment each to the other. I share with you now these words, concerning love. "Love is patient and kind; love is not jealous or boastful; it is not arrogant or rude. Love does not insist on its own way. It is not irritable or resentful. It does not rejoice at wrong but rejoices in the right. Love bears all things, believes all things, hopes all things, endures all things. Love never ends."

"Prayer of St. Francis of Assisi," read by Uncle Scott

And now, inasmuch as _____ have come before this company with the intent of becoming husband and wife, and they have witnessed the same openly and willingly, and thereto have given and pledged their love and faithfulness each to the other, and have declared the same by the giving of rings and joining of hands, I now declare them to be husband and wife. What love has joined together, let no one put asunder.

may your life together be long and happy, and may you live together and sustain each other in peace, and in love.

This concludes the marriage ceremony, and now , you may kiss your bride.

Ladies and gentlemen, friends and relatives, may I present to you . and

Given by:



Ruth L. Neely,
Circuit Court Magistrate

At the ranch, near
Sublette County, Wyoming

Saturday, July 19, 2014

EXHIBIT 47

Year In Review 2014

Wedding bells ring out



TERRY ALLEN COURTESY PHOTO
Kathy Anderson and Sharon Stevens were the first same-sex couple to get married in Sublette County. On Saturday, the two ended their roughly 34-year engagement in a ceremony that concluded on a sweet note with cake. The couple ran out of the Sublette County Library and was greeted by attendees throwing bird seed and offering well wishes.

DEPOSITION
EXHIBIT
34
WPRILL

EXHIBIT 48

CURRENT MAGISTRATES & CONTACT INFORMATION

Chris Leigh
307-690-7735
307-733-7720 (fax)
chrisleigh@wvoming.com

Gaston Gosar
307-231-1111
307-367-3502 (office)
307-367-3503 (fax)
ggosar@centurytel.net

Ralph Ed Wood
Contact Number: 367-4301 office

Rachel Weksler
Contact Number: 367-4345 home
307-690-4720 (cell)
rweksler@yahoo.com

Adjunct Magistrates to perform weddings:

Marilyn Filkins
Contact Number 367-7550 office

Steven Smith 307-749-0533

EXHIBIT 49

Sublette Examiner
12/09/2014

PINEDALE SLOW TO ADAPT TO NEW LAW

by Ned Donovan, ndonovan@subletteexaminer.com

PINEDALE – Since Oct. 21, following a judicial ruling in Laramie that brought equal marriage to the “Equality State,” same-sex couples in Wyoming have been able to get married. As a result, marriage licenses were issued around the state, and last weekend, Sublette County had its first wedding under the new rules. Municipal Judge Ruth Neely, Pinedale town judge for more than 20 years, however, has indicated she will be unable to perform same-sex marriages if asked.

“I will not be able to do them,” Neely told the *Examiner*. “We have at least one magistrate who will do same-sex marriages, but I will not be able to.”

All judges are required to marry those who meet the legal requirements, unless there is a scheduling conflict or other problem. In those cases, prospective couples will be referred to other magistrates.

But Neely’s inability to perform the marriages has nothing to do with her schedule but, rather, her religious beliefs.

“When law and religion conflict, choices have to be made. I have not yet been asked to perform a same-sex marriage,” Neely said.

Neely’s role as a magistrate who can perform marriages is separate from her position as the Pinedale municipal judge, according to Pinedale Mayor Bob Jones.

“As the town judge, she does not perform marriages, that is not part of the description of the work of a town judge ... [Performing marriages] is something she took on herself years ago to try and ... provide more services to the town,” Jones told the *Examiner*. “In terms of whether she will do that as the town judge, which is what she is hired to do for us, it’s kind of a non-player.”

If an issue arose of a marriage being

denied by Neely, Jones indicated he will bring it before the council but not before that occurs.

“Until we have a problem, I don’t see any point in creating a problem,” Jones said.

So far, according to Neely and Jones, no requests have been made, but a citizen may bring up the issue in a Pinedale Town Council public meeting.

“If there’s one person that I know would swallow hard and do what the law said, it would be Ruth Neely,” Jones said. “I want to be very clear I have all the faith in the world that if a case unrelated to this ... came before her, [and] ... she did not think she could be morally fair, I have every, every expectation, as well as I know her, that she would recuse herself before taking that case and enforcing her morals.”

According to the National Center for Lesbian Rights (NCLR), who represented plaintiffs in the Wyoming equal marriage case, a judge refusing to marry a same-sex couple could become a constitutional problem.

“Public officials should serve all members of the public, and they shouldn’t discriminate against couples based on their personal beliefs,” NCLR senior staff attorney Chris Stoll told the *Examiner*. “If a public official selectively chooses not to marry a particular group of people, that potentially raises constitutional concerns under the Equal Protection Clause.”

Neely, however, was clear that this does not stop any same-sex couple in Pinedale from getting married in the town.

“All magistrates are required to perform weddings,” Neely said. “And any couple, regardless of gender, can call any magistrate and any judge and see if that judge can fit them into their personal schedule.”

EXHIBIT 50



Top Stories

Pinedale judge will not marry same-sex couples

Modified: Thursday, Dec 11th, 2014
BY: Ned Donovan

PINEDALE - Since Oct. 21, following a judicial ruling in Laramie that brought equal marriage to the "Equality State," same-sex couples in Wyoming have been able to get married. As a result, marriage licenses were issued around the state, and this weekend Sublette County will have its first wedding under the new rules. Municipal Judge Ruth Neely, Pinedale town judge for more than 20 years, however, has indicated she will be unable to perform same-sex marriages if asked.

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355 S Pine
(In Front of Ridgely's)

Wyoming WIRELESS

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---	--

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"If there's one person that I know would swallow hard and do what the law said, it would be Ruth Neely," Jones said. "I want to be very clear I have all the faith in the world that if a case unrelated to this ... came before her, [and] ... she did not think she could be morally fair, I have every, every expectation, as well as I know her, that she would recuse herself before taking that case and enforcing her morals."

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Neely, however, was clear that this does not stop any same-sex couple in Pinedale from getting married in the town.

"All magistrates are required to perform weddings," Neely said. "And any couple, regardless of gender, can call any magistrate and any judge and see if that judge can fit them into their personal schedule."

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EXHIBIT 51

Sublette Examiner
12/23/2014

PAGE 4 • TUESDAY, DECEMBER 23, 2014 • SUBLETTE EXAMINER

PERSPECTIVES

JUST LIKE A JOURNALIST, A JUDGE SHOULD BE IMPARTIAL

One of the things I most admire about the U.S. compared to Britain is the attitude toward transparency. Open meetings, public records, elections for any position imaginable — all are admirable pursuits, and many of them have died out in the U.K. However, we, as sister-countries, will always share one thing: The love of the common law system.

While the judges here might not wear wigs or be addressed as "My Lord," the principles remain the same. Lady Justice is blind and each judge should weigh each case on balance, regardless of his or her own personal opinions. The reason behind this column is the reaction that the papers, and I personally, have received following the publication of a story revealing Pinedale Municipal Judge Ruth Neely would refuse to marry same-sex couples due to religious beliefs. Much of the frustration expressed to the papers tried to sidestep the actual issue and address reporting practices and whether something is, or should be, on the record.

As well as a love of a fair justice system, this country has also inherited the protection of the freedom of the press, enshrined in the First Amendment of the U.S. Constitution. It is not right to try to coerce journalists or to make vague threats to them; that is something this country has fought

hard to prevent. When speaking to a reporter, everything is on the record unless specified otherwise. Sometimes we may even catch someone off guard while they're dicing vegetables or putting in the garden but we don't aim to use that to our advantage. The primary aim of any reporter, especially one in community journalism, is to expose the workings of the public sector to the private citizens who do not have the time to do it themselves.

Quite often a reporter's personal opinion can conflict with a particular story, which is why objectivity is crucial. Regardless of party affiliation or stance on an issue, every story, just like Lady Justice, must be balanced on its merits with a blindfold on.

In Britain, if a journalist does something wrong to mislead the readers, they are charged with misconduct in a public office. It is not the narrow meaning of office that is important; it is the notion of trust that goes with such a position. The public turns to media, whether online or traditional, to know what is going on, and to break that automatic trust is an utterly horrific thing to do.

Some of my favorite things to receive are critical letters, and I like even more to have them published. It shows, for starters, that it's not true that people don't read the news-

paper — a popular paranoia enjoyed among reporters — but it also shows I am being held accountable for what I write, much like any elected official is at a public meeting.

The disappointment for me, however, is that while I am held to account in two issues of a newspaper a week should anyone write in, it seems that others who hold inherently impartial jobs in government are not. Not following the law, under a cloak of feeble excuses, cannot be accepted.

People must be able to trust, when walking into a courtroom — just like when they read the newspaper — that they can take the message of blind justice at face value. There should be no fear whatsoever that a genetic trait could affect any case against them.

With the approach to marriage seemingly advocated by Judge Neely, there is a severe risk of a civil rights suit, which, as a result, could negatively impact the image of the town and the area as a whole. There are many areas in which Pinedale and Sublette County are making strides, but to let down almost 15 million people who identify with the lesbian, gay, bisexual, transgender and queer community is a step backward, and I do not think the town should have to suffer simply from the views of one person who happens to hold an unelected office.

By Ned Donovan, ndonovan@pinedalaroundup.com

EXHIBIT 52

From: "Munger, Ronda" <rmunger@courts.state.wy.us>
To: City of Pinedale <judgetop@wyoming.com>
CC: "Sharpe, Lily" <lsharpe@courts.state.wy.us>
Subject: RE: ethics question
Date: Mon, 5 Jan 2015 19:51:53 +0000

Judge Neeley:

Good to hear from you. The question of judicial obligations with regard to same sex marriages has not been discussed by the Judicial Ethics Advisory Committee to my knowledge. If you decide to write them a letter, you can send it to:

Judicial Ethics Advisory Committee
Attn: Lily Sharpe
Wyoming Supreme Court
2301 Capitol Avenue
Cheyenne, WY 82002

Best of luck in the new year,
Ronda

From: City of Pinedale [<mailto:judgetop@wyoming.com>]
Sent: Monday, January 05, 2015 11:54 AM
To: Munger, Ronda
Subject: RE: ethics question

Hi again, Ronda,

The last issue here resolved itself, so there was no need to bother the Committee about it. I do, however, have another, more personal one.

I would like to talk to/write to the Committee re the obligation a circuit court magistrate has in performing same sex marriages. Has that question been addressed since October's ruling so there might be something I could read?

Any help is appreciated. Thanks!

Ruth Neely
Municipal Court Judge
Pinedale, Wyoming
"Always be a little kinder than is necessary."

EXHIBIT 53

January 6, 2015

TO: Judicial Ethics Advisory Committee
ATTN: Lily Sharpe
Wyoming Supreme Court
2301 Capitol Avenue
Cheyenne, WY 82002

RE: Same sex marriages

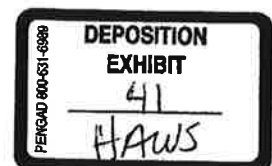
Dear Committee Members:

Recent events in the Town of Pinedale lead me to ask the following:

Question: Can a magistrate recuse himself/herself from officiating at a same sex wedding due to religious conviction; and if so, without fear of civil rights repercussion?

Discussion: As you all are aware, same sex marriages are now performed in Wyoming following the 10th U.S. Circuit Court of Appeals' ruling in October. Since that time we have had two such ceremonies in Pinedale, both last month. There is no shortage of commissioners or magistrates available here to officiate at such events. I have been a circuit court magistrate for well over 10 years, and it is under that authority that I officiate at weddings all around the county. Although I have not yet been asked to officiate at a same sex wedding, I will not be able to do so if/when asked.

Without getting in too deeply here, homosexuality is a named sin in the Bible, as are drunkenness, thievery, lying, and the like. I can no more officiate at a same sex wedding than I can buy beer for the alcoholic or aid in another person's deceit. I cannot knowingly be complicit in another's sin. Does that mean I cannot be impartial on the bench when that homosexual or habitual liar or thief comes before me with a speeding ticket? Or the alcoholic appears before me for yet another charge of public intoxication? No. Firmly, no. I have been the municipal judge for the Town of Pinedale for over 20 years; and there has not been one claim of bias or prejudice made by anyone who has come before me. Not the homosexual, not the alcoholic, not the liar, not the thief. Not one.



I understand “A judge shall uphold and apply the law, and shall perform all duties of judicial office fairly and impartially” (Code of Judicial Ethics, Canon 2, Rule 2.2); and the accompanying Comment [2] “. . . a judge must. . . apply the law without regard to whether the judge approves or disapproves of the law in question.” However I also understand that “A judge *shall* disqualify himself or herself in *any proceeding* in which . . . The judge has a personal bias or prejudice concerning a party. . .” (Canon 2, Rule 2.11(A)(1)) [emphases added]. While I have no bias or prejudice concerning the parties, I do recognize a bias or prejudice in myself concerning the act of same sex marriage. And because I am fully aware of that predisposition in me, I must recuse myself from those proceedings. To not do so would be a flagrant violation of 2.11.

Rule 3.6 Affiliation with Discriminatory Organizations, Comment [4]: I, too, believe a judge should be allowed the lawful exercise of his or her freedom of religion without fearing violation of the Code. I am not a member of some crazy religious organization. I am a Christian. I am a Lutheran. Pretty simple. I stand on the teachings of the Bible and the accompanying convictions of my church, and await your reply.

Thank you.

enclosures

EXHIBIT 54

Judicial Ethics Advisory Committee
Cheyenne, Wyoming

John M. Burman, Chairman
2301 Capitol Avenue
Cheyenne, WY 82002



(307) 777-7678
(307) 777-3447 fax

January 29, 2015

Dear Judge Neely:

Thank you for your request for an advisory opinion on a complex ethical issue. The Committee has reviewed your letter and the additional materials provided to us.

While the Committee always encourages inquiries from judges who seek to proceed ethically and professionally, the Committee's mission is to provide guidance for those judges seeking resolution to *current and unresolved* ethical dilemmas, rather than to confirm a judge's decision or provide a legal opinion. In fact, Rule 5(c) of the Rules of the Supreme Court Judicial Ethical Advisory Committee provides as follows:

The committee shall only issue opinions that address contemplated or proposed future conduct and shall not issue opinions addressing past or current conduct unless the past conduct or current conduct relates to future conduct or conduct that is continuing. The committee shall not issue an opinion in response to a request on a matter known to be before a court or before the Wyoming Commission on Judicial Conduct and Ethics.

Thus, the Committee is prohibited from issuing an opinion under these circumstances. Again, the Advisory Committee on Judicial Ethics thanks you for your request for an advisory opinion.

Sincerely,

A handwritten signature in black ink, appearing to read 'JMB', written over the typed name and title.

John M. Burman
Chair, Judicial Ethics Advisory Committee

EXHIBIT 55

PINEDALE ROUNDUP

COMMENTARY

LETTERS A valedictory dispatch from our man in Pinedale

Gas, sheriff and flamethrowers

Dear Editor,

My hat is off to the three letter writers in the Jan. 23 issue of the *Pinedale Roundup*. It takes a lot of guts to put your feelings in front of the public for all to see.

As for the gas prices, it takes a lot of money and time to run a business. Are "the gas stations in town" charging too much for gas? I don't know the answer to that. What say you, Pinedale? Does anybody else have an opinion?

As for Sheriff Haskell, this is not the Marines. Try to remember this is a small cowboy town in Wyoming. We don't need tanks and flamethrowers. Just put the drunks in jail on Saturday night and keep the dope out of our schools. That's really all we need; I don't care what you look like.

*Bill Dalton
Pinedale*

Religion in the 21st century

Dear Editor,

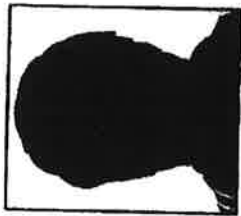
By what reasonable standard can atheism claim not to be a religion?

I'm fascinated by the argument of atheists who qualify their "belief in no God" as confirmation their sect is non-religious. Buddhism and Taoism don't believe in a God — nobody

As I approached the end of my last week here at the *Roundup*, it began to cross my mind that I would have to write a final column. Numerous readers approached me and suggested what it should be about and in the end I've decided to try and combine them all. In the British Foreign Office, when a diplomat overseas is summoned home they compose what is called a "valedictory dispatch," a letter that remarks on the place they have been assigned and nuances perhaps not noticed by residents. Consider this column my valedictory editorial.

Despite only having lived in Sublette County for just over six months, I have been lucky enough to work in a position that has allowed me to see much more of the county and its people than most of its long-term residents. Whether it is sitting through a day-long county commissioners' meeting, or grilling local officials on their opinions, Wyoming is unique in many different ways; in fact one of the reasons I decided to come was not just because many British people hadn't heard of it, but also because many Americans knew little about this state as well.

One of the first shocks was going to the grocery store back in the summer, turning a corner and coming across an entire counter dedicated to guns. For me it was astounding that while buying my milk and bread, I could also buy a rifle, something



REPORTER'S NOTEBOOK

NED DONOVAN

many Wyomingites take for granted.

The other pleasant surprise was how much a community I would be coming into. Despite spending most of my life living in London, and smaller towns, I never really interacted with those who lived around me as much as I do here. The delight in meeting and talking to strangers is an almost unique American fascination; often on public transport in England I have noticed American tourists try to engage British people around them in conversation, often to be met in cold silence. I don't think I am brave enough to take this new attitude back with me but it was a different experience, and one I'll appreciate.

Hospitality of Pinedale residents in general is one asset of the town I will never forget. From being invited into homes for dinners, including Thanksgiving, and being given rides to various places due to my inability to drive. Should any Sublette County resident ever end up in London, I will be more than happy to extend the same courtesy.

However, there have also been times that have disappointed me. It is sad that Judge Ruth Neely is still in an office of responsibility, almost two months after admitting to me that she would not officiate in same-sex marriages, despite them being part of state law. It also concerns me that Pinedale Mayor Bob Jones has still not amended the town's

handbook to provide protection to members of the lesbian, gay, bisexual and transgender community. In December, Jones promised he would raise it at a full council meeting, and there has been several since then, but it has not come up. Sublette County is more progressive than many places in the U.S., but it still has a lot to answer for to ensure residents are not handicapped simply for their genes that define sexuality.

I had the privilege to come in a time of election, and seeing the great democratic process has been fantastic. In Britain, I will go back to an election that will decide the fate of my home country's national government, but yet apathy reigns there, whereas here I find it impossible to meet with local residents without them bringing up politics.

After London, I will be going traveling, the itinerary of which I have shared with some here. The first stop will be France, to see my grandmother for probably the last time. After that, I will be spending a month in India, journeying around the Subcontinent by rail. After a few intervening countries, I will then visit Australia, a nation I am a citizen of but have not yet visited. After that, I'm not sure where I'll go, but as long as it is paying well I won't mind. Although a break from the snow and ice could be nice.

Next week, I will return home, with a pair of cowboy boots in my bag and enough memories for a lifetime. Many have asked if I will be back, and although not knowing when, I'm sure I will. ■

ndonovan@pinedaleroundup.com

EXHIBIT 56

P.O. Box 1386
Pinedale, WY 82941

February 7, 2015

TO: Commission on Judicial Conduct and Ethics
P.O. Box 2645
Cheyenne, WY 82003

RECEIVED
2/11/15

RE: Response to letter of January 12, 2015

Dear Commission Members:

I had begun a letter to the Judicial Advisory Committee on December 15, 2014, asking for its opinion regarding a judge's ability to recuse from officiating at a same sex marriage due to religious convictions about marriage. With Christmas looming and children and grandchildren home for and through the holidays, I did not mail that letter until January 6, 2015. Eight days later, on January 14, I received your letter of January 12.

I respond to the issues of your January 12, 2015 letter in the order presented by you to me:

1. Under what authority do I perform marriages;
2. Was I aware my comments would be published;
3. Am I refusing to perform same sex marriages while performing others; and
4. Comments regarding Rule 2.3.

1. Under What Authority Do I Perform Marriages?

In March 2001, then Circuit Court Judge John Crow appointed me as magistrate, and I performed marriages from then until he "retired." Judge Haws subsequently appointed me as magistrate, and it has been under that authority that I have been performing marriages. The last marriage ceremony that I officiated occurred on December 13, 2014.

2. Was I Aware My Comments Would Be Published?

Following the federal decision requiring same sex marriage in Wyoming, I met with Judge Haws regarding same sex marriages. He advised that I make no comment if approached by the media on the topic. When Ned Donovan called me in December, almost two months later, he identified himself as being with The Pinedale Roundup, one of our two local newspapers. I should have recognized that my comments might be published. But at the time of the phone call I was at home and was completely distracted with another matter. The Pinedale Roundup is published on Fridays. My comment did not appear in that week's Roundup. However, the "story" then appeared in the following Tuesday's Sublette Examiner, the second of our two newspapers—and not the one that Mr. Donovan had identified as his employer. The story



recounted that I had informed Mr. Donovan that I will not be able to solemnize same sex unions due to my religious convictions regarding marriage. I recognize that it would have been better had I answered, "No comment." But, as I already explained, I was caught off guard by the phone call. He asked the question, and I answered truthfully.

3. Am I Refusing To Perform Same Sex Marriages While Performing Opposite Sex Marriages?

I have never been asked to perform any same sex marriage, nor have I ever refused to perform a same sex marriage ceremony.

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. Same sex couples wishing to marry here have many people other than me who are available to officiate their weddings. Whether same sex or heterosexual, no couples to this day have been denied access to the marriage process.

As noted earlier, the last marriage at which I officiated was December 13, 2014. Between then and January 10, 2015, I declined to perform nine marriages, all of which involved a woman marrying a man. One of those nine, by the way, was a man and a woman who my husband and I coached for seven years in t-ball and baseball from 1989 to 1995. We watched them grow up together. It broke my heart to say no, but I did. I had already begun my letter to the Judicial Advisory Committee requesting an opinion concerning recusal from same sex marriages and didn't think it proper to proceed with marriages until I had an answer to my question. On January 15 I met with Judge Haws after we had both received your letter, and it was at that meeting that he officially suspended me from performing any marriages until this issue is resolved. Between January 11 and today, I have turned away three more weddings, all of which involved a woman marrying a man. It has never been, nor will it ever be, my intent to bring disreput to the judiciary.

4. Comments regarding Rule 2.3.


In almost 21 years of being a judge there has never been a complaint of any kind filed against me, either with the Commission or with the Pinedale Town Council. I have certainly never been accused of being prejudiced or biased. And as I explained in my letter to the Committee, my inability to solemnize same-sex unions does not arise from any prejudice or bias against people, but rather from my sincerely held religious beliefs about marriage.

Rule 2.3(A) provides that a judge must act without bias or prejudice. Rule 2.11 indicates that if a judge's impartiality were to be reasonably questioned, he or she must disqualify himself or herself. Nothing I have done indicates bias or prejudice. I have lived in Pinedale for almost 38 years, and most people here know who I am and what I believe. As stated, I am not prejudiced or biased against anyone. But my religious convictions will not allow me to officiate at same sex ceremonies.

As a magistrate, I have been proud to serve the citizens of Sublette County and surrounding areas by performing weddings. I have gone into homes, to our beautiful parks, to local libraries, and to community centers. I have also gone to the middle of Fremont Lake in a boat. I drive 37 miles to Big Piney and 60 miles to LaBarge. I have performed weddings on horseback, at hunting camps, on ranches 40 miles away surrounded by horses and hay. I have done them on a snowmobile on the top of Horse Mountain in the Wyoming Range. I go everywhere, and am happy to do so. The pay is lousy. The experiences are unforgettable. I want to serve our citizens in this way. I hope to be allowed to continue to do so, without being forced to violate my sincerely held religious beliefs.

As we await your decision, please keep my and others' First Amendment rights in mind. I want to continue to officiate at weddings; and I should not have to fear that the lawful exercise of my freedom of religion as a member of a Lutheran church in Pinedale, Wyoming would be a violation of the Code. Thank you for allowing me the opportunity to share my thoughts and explain my actions.

Sincerely,

A handwritten signature in cursive script that reads "Ruth Neely". The signature is written in black ink and is positioned below the word "Sincerely,".

Ruth Neely

JONES AFFIDAVIT

**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)	

AFFIDAVIT OF BOB JONES

COMES NOW Affiant Bob Jones, and presents the following sworn testimony:

1. My name is Bob Jones. I have been a resident of Pinedale, Sublette County, Wyoming, since 2004.
2. I am currently the mayor of Pinedale and have been so since June 2014.
3. I have known Ruth Neely for over 10 years. I first came to know Ruth and her husband when they were the owners of Bucky's Outdoors, a staple of the Pinedale business community that sells and services snowmobiles and ATVs. I know Ruth and Gary to be solid, unselfish, and caring people who are always willing to help those in need, especially the down and out in the community.
4. After being sworn in as mayor, I reappointed Ruth as Pinedale Municipal Judge, in which capacity she had already served for over two decades. That appointment was subsequently confirmed by the Pinedale Town Council.
5. I reappointed Ruth as Pinedale Municipal Judge because she has a sterling reputation in the community as a person of unswerving character and as an honest, careful, and fair judge. Put

simply, that reputation and character is the reason Ruth has been appointed and reappointed by four mayors and counting. She lets no one compromise her integrity or independence as a judge.

6. I have observed Ruth operating in her capacity as a municipal judge, and I can say without reservation that she always follows the law and gives each person who appears before her fair and equal treatment.

7. Ruth does not have the authority to officiate at any weddings when functioning in her role as Pinedale Municipal Judge. In that capacity, she hears cases arising under the Pinedale Municipal Code.

8. Based upon my experience, I do not believe that Ruth's religious belief that marriage is the union of one man and one woman has ever affected in any way her ability to be fair and impartial as a judge. When Ruth is serving in her role as a municipal judge, I cannot imagine a situation in which she would treat unfairly anyone who appears before her.

9. I personally know Ruth to be someone who is a stickler for the rules, someone who always follows the law as she understands it. And in my experience, whenever Ruth has a doubt or a question as to what the law or the rules require, she seeks guidance or counsel from others to find out that answer as soon as possible.


10. Ruth's handling of juvenile cases is notable, commendable, and well known in the community. She always attempts to instill a sense of responsibility in the young people who appear before her, and she often sentences juvenile offenders in a way that ultimately makes them better people and better citizens.

11. I know of no one who has ever complained that Ruth exhibited a bias or prejudice toward or against them, whether inside or outside the courtroom.

12. I view Ruth as an extremely professional judge who is a tremendous asset to the community.

FURTHER YOUR AFFIANT SAYETH NAUGHT.

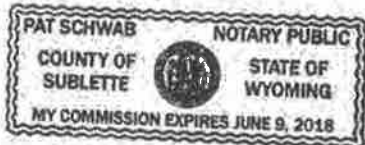
Dated this 20 day of October, 2015



Bob Jones

STATE OF WYOMING)
)SS
COUNTY OF SUBLETTE)

SUBSCRIBED AND SWORN before me this 20th day of October, 2015, by Bob Jones.





Notary Public

My commission expires: 6-9-18

CARLSON AFFIDAVIT

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

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

AFFIDAVIT OF MIRIAM CARLSON

COMES NOW Affiant Miriam Carlson, and presents the following sworn testimony:

1. My name is Miriam Carlson. I have been a resident of Pinedale, Sublette County, Wyoming, for approximately 75 years.
2. I have known Ruth Neely since she moved to Pinedale over 30 years ago.
3. After I was elected mayor of Pinedale I appointed Ruth the Pinedale Municipal Judge in May 1994, after the sitting judge resigned. I appointed Ruth a judge because I trusted her as a person.
4. I was also on the Pinedale Town Council after I served as mayor, during which time Ruth continued to serve as Pinedale Municipal Judge.
5. Since the time I appointed Ruth as Pinedale Municipal Judge, she has done nothing to show that my trust was misplaced. Based on my experience watching her operate as a municipal judge, she has always been fair and impartial. In fact, I don't think you could find a fairer person to be a judge. I have no knowledge of anyone ever claiming that Ruth exhibited a bias or prejudice while acting as a judge.

6. Ruth's beliefs regarding marriage are her own and have nothing to do with her ability to be a judge. It is my opinion that the government has no business telling her what to believe as a condition of remaining a judge. I have no doubt that she will continue to be fair and impartial as a judge regardless of her beliefs about marriage.

FURTHER YOUR AFFIANT SAYETH NAUGHT.

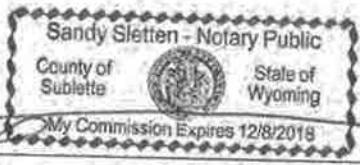
Dated this 20 day of October, 2015

Miriam Carlson
Miriam Carlson

STATE OF WYOMING)
)SS
COUNTY OF SUBLETTE)

SUBSCRIBED AND SWORN before me this 20 day of October, 2015, by Miriam Carlson.

[Signature]
Notary Public



Sandy Sletten - Notary Public
County of Sublette State of Wyoming
My Commission Expires 12/8/2018

My commission expires: 12-8-18

WOOD AFFIDAVIT

**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)	

AFFIDAVIT OF RALPH E. WOOD

COMES NOW Affiant Ralph E. Wood, and presents the following sworn testimony:

1. My name is Ralph E. Wood, generally known in the community as Ed Wood. I have been a resident of Pinedale, Sublette County, Wyoming, for 36 years and in private legal practice for 35 years. I have been the Pinedale Town Attorney for 17 years. I am also a Circuit Court magistrate and District Court commissioner, in which capacities I am authorized to officiate at wedding ceremonies.
2. I have known Ruth Neely for at least 20 years. She has been the Pinedale Municipal Judge for the entire time that I have been Pinedale Town Attorney. In my capacity as town attorney, I regularly observe Ruth in her capacity as municipal judge.
3. I consider Ruth to be a dedicated public servant and an unselfish and generous member of the community more generally.
4. In my experience as Pinedale Town Attorney, Ruth has consistently and without question shown herself to be a judge who scrupulously follows what the law requires. She is someone who considers it her obligation to know what the law is and to follow the law without compromise, no matter what the issue is and no matter who the parties are.

5. Ruth has an excellent reputation in Pinedale as an exceedingly fair and impartial judge. In my experience, every party who appears before Ruth gets a fair shake, and she has never exhibited even the slightest hint of bias, prejudice, or partiality toward anyone. I know of no person who has made any claim that Ruth has ever been anything but impartial as a municipal judge.


6. I have observed that Ruth is particularly effective when dealing with juvenile and young adult offenders. In my experience, she does not view her work as complete upon the mere assessment of fines, jail sentences, or the like. Rather, she views each party who appears before her as an individual who must not only make amends for his or her offense, but also as someone who has the potential to do better and be a more productive member of society. Ruth sentences people as a way to help reform them to ensure that they profit from their experience with the justice system. Many young people have benefitted from their contact with Ruth as a judge and are now better for having come through her courtroom.

7. Based on my experience, Ruth's religious belief regarding marriage and her inability to officiate at same-sex wedding ceremonies does not, and will not, affect in any way her impartiality as a judge. She has always been fair, and I have no doubt that as long as she remains a judge, she will always be fair to all parties who appear before her.

8. There is no shortage of public officials in Pinedale or Sublette County willing to officiate at same-sex wedding ceremonies. I know of only two same-sex marriages that have been requested and officiated in Pinedale or Sublette County since same-sex marriage became legal in Wyoming in October 2014. I officiated the first same-sex marriage ceremony in Pinedale on December 5, 2014, and Steve Smith officiated the second same-sex marriage ceremony in Pinedale on December 6, 2014. I remain willing to officiate same-sex marriages.

FURTHER YOUR AFFIANT SAYETH NAUGHT.

Dated this 20th day of October, 2015


Ralph E. Wood

STATE OF WYOMING)
)SS
COUNTY OF SUBLETTE)

SUBSCRIBED AND SWORN before me this 20th day of October, 2015, by Ralph E. Wood.


Notary Public

My commission expires: 1/10/17



S. EVERSULL AFFIDAVIT

**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)	

AFFIDAVIT OF SUE EVERSULL

COMES NOW Affiant Sue Eversull, and presents the following sworn testimony:

1. My name is Sue Eversull. I am a resident of Pinedale, Sublette County, Wyoming, and I have known Ruth Neely for over 30 years.
2. I know Ruth to be an unfailingly honest and trustworthy person.
3. In her capacity as Pinedale Municipal Judge, Ruth often orders offenders to perform community service as part of their sentences. Ruth regularly suggests Pinedale's senior center, Rendezvous Pointe, as an option for offenders to complete their community service. I work at Rendezvous Pointe and supervise many people that Ruth sentences to community service.
4. Ruth is one of the best judges I have ever worked with. She is tough and makes people toe the line, but she is also fair and impartial and truly cares about the people who appear before her. In my experience she treats everyone with dignity and respect.
5. Having worked with Ruth in her capacity as a judge, it is my opinion that she is not biased toward or against anyone. She decides each case upon the facts and the law.
6. Based upon my experience, Ruth's religious beliefs regarding marriage do not affect in any way her ability to be fair to anyone who appears before her in court. Her religious beliefs

are personal to her and have nothing to do with her ability to continue to be an excellent judge in Pinedale.

FURTHER YOUR AFFIANT SAYETH NAUGHT.

Dated this 20 day of October, 2015

Sue Eversull
Sue Eversull

STATE OF WYOMING)
)SS
COUNTY OF SUBLETTE)

SUBSCRIBED AND SWORN before me this 20 day of October, 2015, by Sue Eversull.



Sandy Sletten
Notary Public

My commission expires: 12-8-18

STEVENS AFFIDAVIT

**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)	

AFFIDAVIT OF SHARON STEVENS


COMES NOW Affiant Sharon Stevens, and presents the following sworn testimony:

1. My name is Sharon Stevens. I have been a resident of Pinedale, Sublette County, Wyoming, since 2006.
2. I met Ruth Neely upon moving to Pinedale, and I have known her in a personal capacity since that time.
3. On December 6, 2014, I was married to Kathy Anderson. Steve Smith officiated the ceremony, which took place in Pinedale. We had originally asked Judge Curt Haws to officiate the ceremony, but he was unavailable.
4. My wife and I have been customers of Bucky's Outdoors, a snowmobile and ATV dealership, service center, and outfitter located in Pinedale, formerly owned by Ruth Neely and her husband, Gary. Gary continues to work at Bucky's. My wife and I have always felt welcome there.
5. Ruth Neely is one of the best people I have ever met. I understand that Ruth cannot officiate a same-sex wedding due to her religious beliefs. Though I do not share her beliefs regarding marriage, I have no doubt whatsoever that Ruth is fair and impartial as a judge. To my

knowledge, she has always treated all individuals respectfully and fairly inside and outside her courtroom, regardless of their sexual orientation. I firmly believe that she will continue to do so.

FURTHER YOUR AFFIANT SAYETH NAUGHT.

Dated this 26th day of October, 2015


Sharon Stevens

STATE OF WYOMING)
)SS
COUNTY OF SUBLETTE)

SUBSCRIBED AND SWORN before me this 20 day of October, 2015, by Sharon Stevens.



Notary Public



My commission expires: 12-8-18

ANDERSON AFFIDAVIT

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

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

AFFIDAVIT OF KATHRYN ANDERSON

COMES NOW Affiant Kathryn Anderson, and presents the following sworn testimony:

1. My name is Kathryn Anderson. I have been a resident of Pinedale, Sublette County, Wyoming, since 2006.
2. I met Ruth Neely upon moving to Pinedale. Ruth is a friend that I respect. I also know her in a professional capacity. I am the Coordinator of the Sublette County Treatment Court, and Ruth sits on the steering committee.
3. On December 6, 2014, I married Sharon Stevens. Steve Smith officiated at the ceremony, which took place in Pinedale. We had originally asked Judge Curt Haws to officiate the ceremony, but he was unavailable.
4. It never occurred to us to ask Ruth to officiate our wedding because we know that it would put Ruth in a difficult position in light of her religious beliefs about marriage. There are plenty of people in Sublette County who are willing to perform marriage ceremonies for same-sex couples, so it would have been completely unnecessary and unfriendly to ask Ruth.
5. I consider Ruth to be a conscientious, fair, and impartial person. I have no doubt that she will continue to treat all individuals respectfully and fairly inside and outside her courtroom,

regardless of their sexual orientation. Accordingly, I believe it would be obscene and offensive to discipline Judge Neely for her statement to Ned Donovan about her religious beliefs regarding marriage.

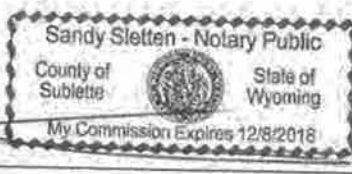
6. In my opinion, Ned Donovan was attempting to stir a pot that did not need to be stirred.
FURTHER YOUR AFFIANT SAYETH NAUGHT.

Dated this 20th day of October, 2015


Kathryn Anderson

STATE OF WYOMING)
)SS
COUNTY OF SUBLETTE)

SUBSCRIBED AND SWORN before me this 20 day of October, 2015, by Kathryn Anderson.



Notary Public

My commission expires: 12-8-18

ROSE AFFIDAVIT

**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)	

AFFIDAVIT OF REVEREND KEVIN ROSE

COMES NOW Affiant Kevin Rose, and presents the following sworn testimony:

1. My name is Kevin Rose. I have been Pastor of Our Savior's Lutheran Church in Pinedale, Wyoming since July 2012. Our Savior's is a congregation of the Lutheran Church, Missouri Synod (LCMS).
2. In my capacity as a pastor, I have known Ruth Neely for over three years. She is a faithful worshipper every Sunday and is an extremely active member of our church. Ruth is currently serving as the financial secretary for Our Savior's. She and her husband attend Bible study every week. Ruth teaches Sunday School and Vacation Bible School as well. She is also the director of the Tone Chime Choir.
3. I know Ruth to be an amazing person who is both quiet and gentle. At the same time, she is firm, steadfast, and sincere in her religious beliefs.
4. As part of the LCMS, it is our religious belief that marriage has been ordained by God as the lifelong union of one man and one woman. It is also our religious belief that we are not to harbor bias or prejudice against any person. Rather, we are to love all people and treat them with dignity and respect as fellow bearers of the image of God.

5. In my experience, Ruth is a person who treats all people with dignity and respect. Knowing her as I do, it is my conviction that her religious belief regarding marriage will in no way compromise her ability to be a fair and impartial judge in Pinedale.

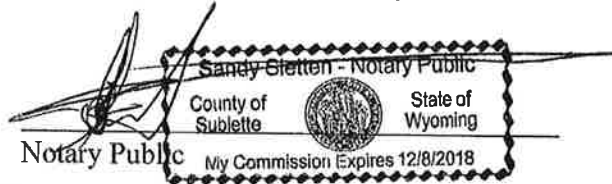
FURTHER YOUR AFFIANT SAYETH NAUGHT.

Dated this 27 day of October, 2015

Kevin Rose
Kevin Rose

STATE OF Wyoming)
COUNTY OF Sublette)SS

SUBSCRIBED AND SWORN before me this 27th day of October, 2015, by Kevin Rose.



My commission expires: 12-8-18

CRANE AFFIDAVIT

**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)	

AFFIDAVIT OF STEPHEN CRANE


COMES NOW Affiant Stephen Crane, and presents the following sworn testimony:

1. My name is Stephen Crane, and I am the editor of the Pinedale Roundup and Sublette Examiner newspapers in Pinedale, Wyoming. I am a resident of Sublette County, Wyoming.
2. On or about August 19, 2015, Ned Donovan sent an email to me that included the August 19, 2015 press release that the Wyoming Commission on Judicial Conduct and Ethics issued regarding its proceeding against Judge Ruth Neely.
3. Around that time, Ned Donovan called me on the telephone to verify that I had seen the press release that he had emailed to me, and to make sure that the Pinedale Roundup and Sublette Examiner would continue to pursue the story.
4. During that telephone conversation, Ned Donovan also stated to me, referring to Judge Neely, that he wanted "to see her sacked."

FURTHER YOUR AFFIANT SAYETH NAUGHT.

[Signature page follows.]

Dated this 27 day of October, 2015



Stephen Crane

STATE OF WYOMING)
)SS
COUNTY OF SUBLETTE)

SUBSCRIBED AND SWORN before me this 27 day of October, 2015, by Stephen Crane.



Notary Public

My commission expires: 6/23/2019

