



**IN THE SUPREME COURT
OF THE STATE OF NEW MEXICO**

No.

S-1-SC-39193

IN THE MATTER OF HON. MARY W. ROSNER
Third Judicial District Court

INQUIRY CONCERNING HON. MARY W. ROSNER
Inquiry No. 2021-015

FILED UNDER SEAL
PURSUANT TO 27-104(B) NMRA 2011

**PETITION TO ACCEPT STIPULATION AGREEMENT
AND CONSENT TO DISCIPLINE**

JUDICIAL STANDARDS COMMISSION
6200 Uptown Blvd., NE, Suite 320
Albuquerque, NM 87110-4159
Telephone: (505) 222-9353

LILLEY & O'CONNELL P.A.
1020 S. Main St.
Las Cruces, NM 88005
(575) 524-7809

PHYLLIS A. DOMINGUEZ
Executive Director & General Counsel

JEROME O'CONNELL

Counsel for Respondent

CHANCE A. GAUTHIER
Investigative Trial Counsel

Counsel for Petitioner

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**PETITION TO ACCEPT STIPULATION AGREEMENT
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The Judicial Standards Commission of the State of New Mexico (“Petitioner”), through the undersigned counsel, hereby petitions the Supreme Court for an order approving the attached *Stipulation Agreement and Consent to Discipline* (“*Stipulation*”) in which Respondent, Hon. Mary W. Rosner, consents to discipline from the Supreme Court. Respondent is represented by Jerome O’Connell of Lilley & O’Connell P.A. The Commission believes this stipulation agreement best serves the interests of justice and the integrity of the New Mexico Judiciary.

1. Petitioner invokes its jurisdiction pursuant to Petitioner's power to recommend the discipline of judges, and the Supreme Court's power to discipline judges under the New Mexico Constitution Article VI, Section 32; the Court's power of superintending control under the New Mexico Constitution Article VI Section 3; and Rule 36 of the Judicial Standards Commission Rules.

2. The Commission entered into a *Stipulation* with Respondent on January 24, 2021. (Attached as **EXHIBIT 1.**) The *Stipulation* was based upon Respondent's acceptance of responsibility, efforts to change the conduct, cooperation with the Commission and Respondent's consent to imposition of discipline by the Supreme Court as follows:

3. Respondent consents to imposition of the following discipline by the Supreme Court:

A. **Public Censure** - Respondent agrees and consents to receive a public censure from the Supreme Court, which shall be published in the New Mexico *Bar Bulletin*.

B. **Judicial Education Course** - Respondent agrees and consents to enroll in and complete the following judicial education course offered by the National Judicial College:

- i. **Ethics and Judging: Reaching Higher Ground:**
Respondent agrees to complete the course by July 30, 2022.

4. Respondent admitted that sufficient evidence exists to prove the facts alleged in the *Notice of Formal Proceedings* and to conclude that those facts taken individually and/or together may constitute willful misconduct in office.

5. Respondent admitted that her conduct violated Rules 21-101, 21-102, 21-202, 21-203, 21-204(A), 21-204(B), 21-210(A) and 21-211(A)(1) of the Code of Judicial Conduct.

6. As set forth in the *Stipulation*, Respondent agrees that her conduct may constitute willful misconduct in office and provides sufficient basis for the New Mexico Supreme Court to impose discipline against Respondent pursuant to Article VI, Section 32 of the New Mexico Constitution.

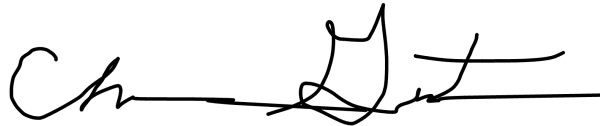
7. Upon Order from this Court, the attached *Stipulation* is enforceable by the Commission before the Supreme Court.

8. It is in the best interests of justice and integrity of the New Mexico Judiciary that the Supreme Court grant this Petition.

WHEREFORE, Petitioner respectfully requests this Court issue an order granting the Commission's Petition, approving the *Stipulation Agreement and Consent to Discipline* and imposing the discipline set forth in the *Stipulation*. Petitioner also requests that this order unseal all documents filed in the Supreme Court in this case pursuant to Rule 27-104(B) NMRA.

Respectfully submitted,

JUDICIAL STANDARDS COMMISSION

A handwritten signature in black ink, appearing to read "Phyllis A. Dominguez", written over a horizontal line.

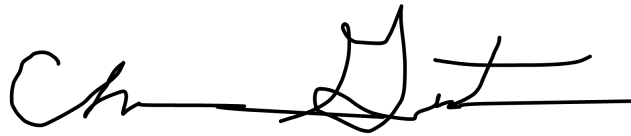
PHYLLIS A. DOMINGUEZ
Executive Director & General Counsel

CHANCE A. GAUTHIER
Investigative Trial Counsel

6200 Uptown Blvd., NE, Suite 320
Albuquerque, NM 87110-4159
Telephone: (505) 222-9353

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via email this 25th day of January 2022, to Respondent's counsel at jerome@lilleyandoconnell.com

A handwritten signature in black ink, appearing to read "Chance A. Gauthier", written over a horizontal line.

CHANCE A. GAUTHIER

BEFORE THE JUDICIAL STANDARDS COMMISSION
STATE OF NEW MEXICO

FILED

INQUIRY CONCERNING HON. MARY W. ROSNER
Third Judicial District Court

JAN 24 2021



Inquiry No. 2021-015

NM JUDICIAL
STANDARDS COMMISSIONSTIPULATION AGREEMENT AND CONSENT TO DISCIPLINE

THIS MATTER is currently pending before the Judicial Standards Commission ("Commission") pursuant to a *Notice of Formal Proceedings* issued to Hon. Mary W. Rosner ("Respondent") on August 13, 2021, in Inquiry No. 2021-015 (*See Exhibit A*). This *Stipulation Agreement and Consent to Discipline* ("Stipulation") is entered into by and between the Commission and Respondent through her counsel Jerome O'Connell, Esq. The parties hereby enter into the following *Stipulation*:

1. Respondent admits that she engaged in the following acts:
 - A. On or about February 15, 2021, in Cause No. D-307-DM-2014-00786, Judge Mary W. Rosner issued the *Order Denying Respondent's Motion to Recuse for Cause and Order Denying Respondent's Motion to Remove Parenting Coordinator and Revoke Parenting Coordinator's Quasi-Judicial Immunity* (hereinafter "February Order", which is attached to Exhibit A). In Paragraph 17 of the February Order, Judge Rosner inappropriately responded to and/or attacked one of the attorneys in the case, Anna Farrell, and her client. The Language she used in paragraph 17 was a direct response to a *Las Cruces Sun-News* article that she thought was written by and/or because of attorney Anna Farrell. (*Las Cruces Sun-News Article* attached as Exhibit B). Judge Rosner used Paragraph 17 of the February Order to attack Attorney Anna Farrell's credibility and reputation, as well as her client's who was the Respondent/Father in the case.
 - B. In Paragraph 17 of the *Order Denying Respondent's Motion to Recuse for Cause and Order Denying Respondent's Motion to Remove Parenting Coordinator and Revoke Parenting Coordinator's Quasi-Judicial Immunity* ("February Order") in Cause No. D-307-DM-2014-00786, Judge Rosner

inappropriately discussed the conclusions of a sealed doctor's report, despite acknowledging in the February Order itself that the report was sealed. Judge Rosner's use of the sealed doctor's report in Paragraph 17 had no material or substantive effect on the holding in her February Order, but instead was primarily used to attack Ms. Farrell, and Ms. Farrell's client who was the Respondent/Father in the case, and the *Las Cruces Sun-News* article.

- C. Judge Rosner failed to recuse from Cause No. D-307-DM-2014-00786, when she knew or should have known that she could no longer be fair and impartial following the publication of the *Las Cruces Sun-News* article and her belief that the article was written by attorney Anna Farrell, who represented the Respondent/Father in the case.

2. Respondent admits that she violated the following rules of the Code of Judicial Conduct: Rules 21-101, 21-102, 21-202, 21-203, 21-204(A), 21-204(B), 21-210(A), 21-210(E) and 21-211(A)(1) NMRA and stipulates that the facts and evidence, individually and taken together, may constitute willful misconduct in office and one or more violations of the New Mexico Code of Judicial Conduct and provides sufficient basis for the New Mexico Supreme Court to impose discipline pursuant to Article VI, Section 32, of the New Mexico Constitution.

3. Respondent consents to imposition of the following discipline by the Supreme Court:

- A. **Public Censure** - Respondent shall receive a public censure from the Supreme Court, which shall be published in the New Mexico *Bar Bulletin*. A proposed Public Censure will be drafted and submitted by the Judicial Standards Commission based on this stipulation.
- B. **Training** - At her own personal expense, Respondent shall enroll in and successfully complete the following judicial education course offered by the National Judicial College:
 - i. **Ethics and Judging: Reaching Higher Ground**: Shall be completed by July 30, 2022.

4. Upon Successful Completion of the terms of the *Stipulation* and the anticipated disciplinary order from the Supreme Court, the Commission will close this matter.

5. The Commission will file under seal with the New Mexico Supreme Court, pursuant to JSC Rules 34(A) and 36(E), a *Petition to Accept Stipulation Agreement and Consent to Discipline* ("Petition"), attaching a copy of this executed *Stipulation*.

6. The Commission agrees to abate the current proceedings upon granting of the *Petition* by the Supreme Court.

7. Upon granting the *Petition*, and pursuant to Supreme Court Rules, Respondent acknowledges that this matter will be unsealed at the Supreme Court.

8. This *Stipulation* is specifically enforceable by the Commission before the Supreme Court.

9. Respondent acknowledges that upon execution of this *Stipulation*, Respondent gives up any and all motions, defenses, objections, or requests that the Respondent has made or raised, or could assert hereafter in or concerning the Judicial Standards Commission proceedings.

10. The provisions of this *Stipulation* are material to the Commission's deliberations and ultimate acceptance of it.

11. This document is not enforceable unless fully executed by all parties.

12. The Commission and Respondent shall take all actions necessary to carry out and fulfill the terms and conditions of this *Stipulation*.

13. **Non-Compliance and Breach:** If Respondent violates any terms or provisions of this executed *Stipulation*, Respondent agrees that all facts alleged in the *Notice of Formal Proceedings* issued in Inquiry 2021-015 shall be deemed admitted by the Respondent, will be used against Respondent in future proceedings before the Commission and the Supreme Court, may constitute obstruction of Commission business and contempt.

14. Respondent shall not make any misrepresentations to the media concerning this Inquiry, the facts and circumstances of Respondent's *Stipulation*, or the Commission's proceedings.

15. The terms and conditions contained in this stipulation are mutually acceptable to and agreed upon by all parties.


16. All parties have read and understand this *Stipulation*, have had the opportunity to discuss it with and be advised by legal counsel, and hereby freely and voluntarily enter into this *Stipulation* free of any threats, and free of any promises not contained herein.

RESPONDENT'S REVIEW AND APPROVAL

I have read and understand this *Stipulation*. I have had the opportunity to discuss this matter and my rights with my attorney. I understand that by entering into this *Stipulation*, I will be giving up my rights to a formal hearing on the merits and to confront, cross-examine and compel the attendance of witnesses regarding these issues.

I know, understand, and agree that the provisions of this *Stipulation* are material to the Commission's deliberations and ultimate acceptance of it. I understand and agree that by entering into this stipulation I am admitting that the conduct described in the *Notice of Formal Proceedings* is fact and that such conduct taken individually or together may constitute willful misconduct. I also admit the Supreme Court has sufficient basis to impose discipline based on the admitted facts outlined above. I also fully understand and agree that if I violate any terms of this agreement the Commission shall re-initiate the matter pending before the Court and/or the Commission at the time this *Stipulation* was executed.

I understand and agree that my attorney is speaking for me, and on my behalf in this proceeding, and that anything my attorney says or does in this proceeding can and should be attributable to me. In the event my attorney says or does anything during the course of this proceeding that I do not agree with, I know, understand and agree that I have an affirmative duty to make my disagreement with my attorney's words or conduct known. If I do not make my disagreement known, then I know, understand, and agree that I am accepting my attorney's words and conduct in this proceeding as my own.




HON. MARY W. ROSNER
Respondent

Dated: January 7, 2022

COUNSEL FOR RESPONDENT'S REVIEW AND APPROVAL

I have reviewed this *Stipulation* with my client. I have advised my client of her constitutional rights and possible defenses, and hereby accept and approve my client's entry into this *Stipulation*.



JEROME O'CONNELL, ESQ.
Counsel for Respondent

Dated: 1/7/22

INVESTIGATIVE TRIAL COUNSEL'S REVIEW AND APPROVAL

I have reviewed this *Stipulation* and find that it is appropriate and in the best interest of justice. I hereby recommend that the Judicial Standards Commission accept and approve this *Stipulation*.

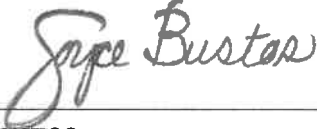


CHANCE A. GAUTHIER, ESQ.
Investigative Trial Counsel

Dated: 01/21/2022

JUDICIAL STANDARDS COMMISSION'S REVIEW & APPROVAL

The Commission has reviewed this *Stipulation* and finds that it is in the best interest of justice and hereby accepts and approves this *Stipulation*.



JOYCE BUSTOS
Chair

Dated: 1-24-2022



PHYLLIS DOMINGUEZ, ESQ.
Executive Director & General Counsel

Dated: 01-24-2022

BEFORE THE JUDICIAL STANDARDS COMMISSION
OF THE STATE OF NEW MEXICO

FILED

AUG 13 2021



NM JUDICIAL
STANDARDS COMMISSION

INQUIRY CONCERNING HON. MARY W. ROSNER
Third Judicial District Court
Inquiry No. 2021-015

NOTICE OF FORMAL PROCEEDINGS

TO: Hon. Mary W. Rosner
Third Judicial District Court
201 W. Picacho Ave.
Las Cruces, NM 88005

YOU ARE HEREBY NOTIFIED that the Judicial Standards Commission, in accordance with its jurisdiction under Article VI, Section 32 of the New Mexico Constitution and pursuant to Judicial Standards Commission Rule 15, has instituted formal proceedings on the charges set forth below.

COUNT 1

On or about February 15, 2021, in Cause No. D-307-DM-2014-00786, you issued the *Order Denying Respondent's Motion to Recuse for Cause and Order Denying Respondent's Motion to Remove Parenting Coordinator and Revoke Parenting Coordinator's Quasi-Judicial Immunity* (hereinafter "February Order", which is attached as **Exhibit A**). In Paragraph 17 of the February Order, you inappropriately responded to and/or attacked one of the attorneys in the case, Anna Farrell, and her client. The Language you used in paragraph 17 was a direct response to a *Las Cruces Sun-News* article that you thought was written by and/or because of attorney Anna Farrell. (*Las Cruces Sun-News Article* attached as **Exhibit B**). You used Paragraph 17 of the February Order to attack Attorney Anna Farrell's credibility and reputation, as well as her client's who was the Respondent/Father in the case.

Such conduct violates the Code of Judicial Conduct Rules 21-101, 21-102, 21-202, 21-203, 21-204(A), 21-204(B), 21-208(A), 21-208(B), 21-210(A), 21-210(E) and, 21-211(A)(1), NMRA 2021 and constitutes willful misconduct in office.

COUNT 2

In Paragraph 17 of the *Order Denying Respondent's Motion to Recuse for Cause and Order Denying Respondent's Motion to Remove Parenting Coordinator and Revoke Parenting Coordinator's Quasi-Judicial Immunity* ("February Order") in Cause No. D-307-DM-2014-00786, you inappropriately discussed the conclusions of a sealed doctor's report, despite acknowledging in the February Order itself that the report was sealed. Your use of the sealed doctor's report in Paragraph 17 had no material or substantive effect on the holding in your February Order, but instead was primarily used to attack Ms. Farrell, her client who was the Respondent/Father in the case, and the *Las Cruces Sun-News* article.

Such conduct violates the Code of Judicial Conduct Rules 21-101, 21-102, 21-202, 21-203, 21-204(A), 21-204(B), 21-208(A), 21-208(B), 21-210(A), 21-210(E) and, 21-211(A)(1), NMRA 2021 and constitutes willful misconduct in office.

COUNT 3

You failed to recuse from Cause No. D-307-DM-2014-00786, when you knew or should have known that you could no longer be fair and impartial following the publication of the *Las Cruces Sun-News* article and your belief that the article was written by attorney Anna Farrell, who represented the Respondent/Father in the case.

Such conduct violates the Code of Judicial Conduct Rules 21-101, 21-102, 21-202, 21-203, 21-204(A), 21-204(B) and, 21-211(A)(1), NMRA 2021 and constitutes willful misconduct in office.

COUNT 4

You failed to report to the Disciplinary Board of the New Mexico Supreme Court, and/or failed to take other appropriate action concerning the professional misconduct you believed and stated attorney Anna Farrell had committed in and/or relating to Cause No. D-307-DM-2014-00786.

Such conduct violates the Code of Judicial Conduct Rules 21-101, 21-102 and, 21-215(B) NMRA 2021 and constitutes willful misconduct in office.


PLEASE BE ADVISED that in accordance with Rule 16 of the Judicial Standards Commission Rules, you shall file a written answer to this notice within twenty-one (21) days of its service upon you. Your answer shall be filed with the Commission electronically (call for filing e-mail address) or by mail sent to:

*Judicial Standards Commission
6200 Uptown Blvd. NE, Suite 320
Albuquerque, New Mexico 87110-4159*

Article VI, Section 32 of the New Mexico Constitution provides that all papers filed with and proceedings before the Judicial Standards Commission are confidential, except that any record filed by the Commission in the New Mexico Supreme Court continues its privilege but, upon its filing, loses its confidential character, and a writing which was privileged prior to filing with the Commission, or its masters does not lose its privilege by the filing.

JUDICIAL STANDARDS COMMISSION

BY: _____


Joyce E. Bustos, Chair
6200 Uptown Blvd. NE, Suite 320
Albuquerque, NM 87110-4159
(505) 222-9353

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 13th day of August 2021 a true copy of the foregoing was sent as follows:

VIA CERTIFIED FIRST-CLASS
MAIL/RETURN RECEIPT
REQUESTED

RESPONDENT

Hon. Mary W. Rosner
Third Judicial District Court
201 W. Picacho Ave.
Las Cruces, NM 88005

JUDICIAL STANDARDS COMMISSION

A handwritten signature in cursive script, appearing to read "Lulla Gonzalez", is written over a horizontal line.