

1 **BEFORE THE COMMISSION FOR COMMON-INTEREST**
2 **COMMUNITIES AND CONDOMINIUM HOTELS**
3 **STATE OF NEVADA**

4 Sharath Chandra, Administrator,
5 Real Estate Division, Department of
6 Business & Industry, State of Nevada,

7 Petitioner,

8 vs.

9 KELLY EVERS;

10 Respondent.

Case No. 2025-526

FILED

JUL 29 2026

NEVADA COMMISSION FOR
COMMON INTEREST COMMUNITIES
AND CONDOMINIUM HOTELS

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11 **OPPOSITION TO RESPONDENT'S**
12 **MOTION FOR REHEARING OR RECONSIDERATION**

13 The Real Estate Division of the Department of Business and Industry, State of
14 Nevada (the "Division"), by and through its counsel, Aaron D. Ford, Attorney General of
15 the State of Nevada, and Phil W. Su, Senior Deputy Attorney General, hereby files this
16 Opposition to Respondent's Ever's Motion for Rehearing or Reconsideration.

17 Respondent Ever's Motion fails to cite any legally actionable basis for her requested
18 relief, either to set aside the proceedings or to grant a rehearing regarding what she claims
19 is a mandatory jurisdictional bar, pursuant to NAC 116.630. The matter heard before the
20 Commission was an administrative case concerning potential violations of NRS and NAC
21 116, for which there are administrative penalties subject to that chapter, while the federal
22 district court case involves a complaint for slander seeking civil damages.

23 DATED this 28th day of July, 2026.

24 AARON D. FORD
25 Attorney General

26 By: /s/ Phil W. Su
27 PHIL W. SU (Bar No. 10450)
28 Senior Deputy Attorney General
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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 Administrative hearings, such as this Commission's hearing in Case 2025-526,
3 focus on regulatory penalties and statutory compliance, while court proceedings, such as
4 Mr. Petersen's federal district court case against Respondent Evers claiming slander per
5 se, focus on monetary compensation and private civil relief. Contrary to Respondent Evers'
6 insistence otherwise, these proceedings sharing the same operative facts does not trigger
7 any form of jurisdictional bar. Indeed, nothing, short of a court ordered stay of the
8 Commission proceedings, which Evers did not seek, could legally prevent the Division from
9 duly performing its statutory responsibilities under NRS 116, which included
10 investigating and prosecuting its administrative case against Evers.

11 a. **NAC 116.630 Does Not Establish a "Mandatory Statutory Bar" of the**
12 **Commission's Concluded Proceedings**

13 Respondent Evers misconstrues the meaning of NAC 116.630, arguing that the
14 regulation constitutes a jurisdictional bar. In Case 2025-526, which, it must be
15 emphasized, has already been heard at this Commission's June 2026 hearing stack and
16 where Evers was duly represented by retained counsel and afforded a full opportunity to
17 be heard as to the violation alleged in the Division's formal complaint, she had every
18 opportunity to raise this issue with the Commission. She did not do so then, and now
19 attempts to take a "second bite at the apple" and seek a do-over by arguing the Commission
20 did not have the authority to hold its hearing against her. Her position is contrary to both
21 statute and regulation.

22 NAC 116.630 reads as follows:

23 **Request for hearing, rehearing or reconsideration prohibited after**
24 **initiation of civil action or submission for mediation or**
25 **arbitration. (NRS 116.615, 116.675)** A party may not request a hearing
26 before the Commission or a hearing panel, or file a motion for rehearing before
27 the Commission or for reconsideration of the final decision of the Commission,
28 if a civil action based upon the same claim has already been initiated in any
29 court in this State or has already been submitted to mediation or arbitration
30 pursuant to the provisions of NRS 38.300 to 38.360, inclusive.

31 (Added to NAC by Comm'n for Common-Interest Communities by R142-06,
32 eff. 12-7-2006; A by Comm'n for Common-Interest Communities & Condo.
33 Hotels by R052-13, 8-10-2015)

1 NAC 116.630 is contained within the portion of NAC 116 entitled “Administrative
2 Proceedings, NAC 116.550 through 116.635 and specifically contemplate two scenarios:

- 3 1) A party cannot file post-hearing motions for reconsideration and/or rehearing,
4 pursuant to NAC 116.617 (such as is the case here), if they have already
5 petitioned for judicial review with district court pursuant to NRS 233B.130; and
- 6 2) A party cannot request a hearing before the Commission if “if a civil action based
7 upon the same claim has already been initiated in any court in this State or has
8 already been submitted to mediation or arbitration pursuant to the provisions
9 of NRS 38.300 to 38.360,” [Emphasis added].

10 Here, Respondent Evers contends that the second scenario deprives this
11 Commission of subject matter jurisdiction to have heard Case 2025-526 in the first place.
12 In doing so, she conveniently ignores that the violation of law alleged in 2025-526 by the
13 Division’s formal complaint is a fundamentally different claim than the claims asserted
14 by Mr. Petersen in his suit against her, for slander per se. NAC 116.630 is a bar against
15 Mr. Petersen from seeking hearing against Respondent Evers on his slander per se claims
16 before this Commission. The regulation was not intended to bar the Division from meeting
17 its statutory obligations under NRS 116.615: administering NRS 116, including
18 investigating and pursuing discipline against HOA board members for violations of law.
19 Moreover, Respondent’s position is logically unsound: the Division would never seek to
20 enact a regulation counter to its statutory objectives and this Commission would never
21 enact such a proposed regulation, either.

22 **b. The “February 10 Administrative Denial” is Not a Proper Basis For**
23 **Reconsideration of the Commission’s Findings of Fact, Conclusions of**
24 **Law and Order**

25 Respondent Evers next contends that an email from Investigator Towle on February
26 10, 2026, constitutes an intermediate administrative act that constitutes an error of law
27 that “tainted the entire adjudicatory process.” In short, she takes issue with the fact that
28 Investigator Towle, on behalf of the Division, referred the matter for hearing rather than
closing the investigation outright, leading the Commission to hear 2025-526 despite

1 lacking jurisdiction (based on her interpretation of NAC 116.630). But his action, in the
2 course of his investigation, does not constitute a basis for reconsideration of the
3 Commission's decision: it is the Commission's decision, which took into account Towle's
4 investigation, including his February 10th letter, that is at issue here. For the reasons set
5 forth above, this argument must also be rejected: the Division and its investigator followed
6 all statutory requirements to provide Respondent Evers with due process, including an
7 opportunity to present evidence and to be heard at a contested hearing.

8 **c. The Concurrent Civil Proceeding Does Not Constitute New Evidence**
9 **Warranting a New Hearing**

10 Respondent Evers next appears to contend that, while she had been representing
11 herself *In Proper Person* during the Division's investigation, she raised the issue of
12 concurrent civil litigation and a potential jurisdictional bar with Investigator Towle and
13 the Division, but her request for the investigation to be closed was denied. Again, this
14 claim rests upon Respondent Evers' incorrect reading of NAC 116.630, specifically, and
15 Nevada law, generally. Nothing short of a court ordered stay, which Evers did not seek
16 prior to the Commission's hearing, could legally prevent the Division from duly performing
17 its statutory responsibilities under NRS 116, including preparing and bringing this case
18 to hearing. Indeed, Mr. Petersen's suit against Respondent Evers does not even meet the
19 definition of new evidence, as a copy of the complaint was specifically provided in her
20 documents and Petersen's was discussed during the Commission hearing.

21 **CONCLUSION**

22 Based on the foregoing, the Division respectfully requests that the Commission
23 deny Respondent Evers' Motion for Rehearing or Reconsideration in its entirety.

24 DATED this 28th day of July, 2026.

25 AARON D. FORD
26 Attorney General

27 By: /s/ Phil W. Su
28 PHIL W. SU (Bar No. 10450)
Attorneys for Real Estate Division