

COMMISSION ON JUDICIAL SELECTION APPLICATION

FIRST JUDICIAL DISTRICT
DEPARTMENT I

By

(Joel W. Locke)



Personal Information

1.	Full Name	Joel William Locke
2.	Have you ever used or been known by any other legal name (including a maiden name)? If so, state name and reason for the name change and years used.	No
3.	How long have you been a continuous resident of Nevada?	1977-2003; 2006-present (Spokane, WA 2003-2006 Law School)
4.	City and county of residence	Carson City (Consolidated Municipality)
5.	Age	47

Employment History

6. Please start with your current employment or most recent employment, self-employment, and periods of unemployment for the last 20 years preceding the filing of this Application.

Current Employer	Allison MacKenzie, Ltd.
Phone	775-687-0202
Physical Address & Website	402 N. Division Street, Carson City, Nevada 89703 www.allisonmackenzie.com
Date(s) of Employment	August 20, 2007 – Present
Supervisor's Name and Title	James R. Cavilia, President Christopher MacKenzie, Managing Partner
Your Title	Attorney; Treasurer; Director
Describe Your Key Duties	As corporate Treasurer, I am on several committees including the Finance & Budget, 401(k), Trust Account & Insurance, and Marketing committees. As a shareholder attorney, I work full time in the areas of Estate Planning, Trust/Probate, Business Law, Family Law, General Litigation, and Labor Law (representing public employers: Counties, Cities, School Districts in Collective Bargaining and Arbitration). I supervise associate attorneys and work with all shareholders in monthly meetings and the operation of the business that started in 1968 and continues to this date.
Reason for Leaving	N/A

Current Employer	First Judicial District Court in and for Carson City and Storey County, State of Nevada
Phone	775-882-1619
Address & Website	885 E. Musser Street, Carson City, Nevada 89701

	www.carson.org/government/departements-a-f/courts/departement-i
Date(s) of Employment	May 17, 2022-Present
Supervisor's Name and Title	District Judge James T. Russell
Your Title	Juvenile Magistrate
Describe Your Key Duties	Sit as a Juvenile Magistrate and perform all duties of a Magistrate, including Juvenile Protective Orders
Reason for Leaving	N/A

Current Employer	Carson City Justice & Municipal Court
Phone	775-887-2064
Physical Address & Website	885 E. Musser Street, Carson City, Nevada 89701 www.carson.org/government/departments-af/courts/justice-municipal-court-clerk
Date(s) of Employment	December 20, 2013 – Present
Supervisor's Name and Title	Judge John Tatro (now Senior Judge); Judge Kristin Luis (now District Judge); Judge Thomas Armstrong
Your Title	Justice of the Peace Pro Tempore
Describe Your Key Duties	Sit as a Justice of the Peace and/or Municipal Court Judge and perform all duties of a Justice of the Peace, both civil and criminal, within the jurisdiction of the Justice Court
Reason for Leaving	N/A
Previous Employer	First Judicial District Court in and for Carson City and Storey County, State of Nevada
Phone	775-882-1619
Address & Website	885 E. Musser Street, Carson City, Nevada 89701 www.carson.org/government/departements-a-f/courts/departement-i
Date(s) of Employment	August 7, 2006-August 15, 2007
Supervisor's Name and Title	District Judge William A. Maddox, Department 2
Your Title	Law Clerk
Describe Your Key Duties	Legal Research; draft Bench Memos; organize Law and Motion files each week; draft proposed orders; attend and schedule weekly Attorney setting calendars; attend hearings; assist Court Clerks
Reason for Leaving	End of Clerkship

Previous Employer	Allison MacKenzie, Ltd.
Phone	775-687-0202
Address & Website	402 N. Division Street, Carson City, Nevada 89703 www.allisonmackenzie.com
Date(s) of Employment	May, 2005-August, 2005
Supervisor's Name and Title	Andrew MacKenzie, Esq., Supervising Attorney
Your Title	Summer Law Clerk
Describe Your Key Duties	Legal Research and writing of memos; draft documents; client coordination and communication; witness estate planning documents; organize files; accompany attorneys to hearings
Reason for Leaving	End of Summer Clerkship

Previous Employer	First Judicial District Court in and for Carson City and Storey County, State of Nevada
Phone	775-882-1619
Address & Website	885 E. Musser Street, Carson City, Nevada 89701 www.carson.org/government/departements-a-f/courts/departement-i
Date(s) of Employment	May, 2004-August, 2004
Supervisor's Name and Title	District Judge Michael Griffin, Department 1 and District Judge William A. Maddox, Department 2
Your Title	Summer Extern
Describe Your Key Duties	Legal Research; draft legal memos on specific issues; attend and schedule weekly Attorney setting calendars; attend hearings; assist Law Clerks
Reason for Leaving	End of Summer Externship

Educational Background

7. List names and addresses of high schools, colleges and graduate schools (other than law school) attended; dates of attendance; certificates or degrees awarded; reason for leaving.
- Carson High School; August, 1994-June, 1996; High School Diploma; Graduated
 - Western Nevada Community College; August, 1996-June, 1997; Matriculated to University of Nevada Reno
 - University of Nevada Reno; August, 1997-December, 2000; B.S. Finance, Minor in Economics, Minor in Speech Communication; Graduated

8. Describe significant high school and college activities including extracurricular activities, positions of leadership, special projects that contributed to the learning experience.
- In high school (1993-1996), I was very involved in my church's youth group, which was led by my eldest brother. During each spring break, we would volunteer on Mexican Medical Ministries in San Quintin, Mexico. We would travel with physicians who would donate their time for treatment and surgeries, and the youth group would help the hospitals and churches build infrastructure during the day. At night we would travel to migrant farm worker camps and provide Vocation Bible School to the children and movies to the adults.
 - At Carson High School I was involved in Student Government and served as a senior class representative in 1996
 - Boy's State delegate
 - Participated in intramural basketball at University of Nevada Reno
9. List names and addresses of law schools attended; degree and date awarded; your rank in your graduating class; if more than one law school attended, explain reason for change.
Gonzaga University School of Law; July, 2003-May, 2006; J.D.; Graduated 2006; top one-third of class
10. Indicate whether you were employed during law school, whether the employment was full-time or part-time, the nature of your employment, the name(s) of your employer(s), and dates of employment.
In 2005 and part of 2006, I worked as a part-time, work-study student with The United Way of Spokane County. I screened potential donee applications for their qualifications to be affiliated with receiving donations through the United Way. I also processed donations for donors who designated approved charitable organizations affiliated with the United Way.
11. Describe significant law school activities including offices held, other leadership positions, clinics participated in, and extracurricular activities.
During law school, I attended school full-time, worked part-time, and spent summers working in Carson City, Nevada for the First Judicial District Court and Allison MacKenzie, Ltd. At the time, my extra-curricular activities consisted of going to as many Gonzaga Basketball games as possible, hiking with my family and my dogs, fishing, and running in the annual 12k Spokane Bloomsday races.

Law Practice

12. State the year you were admitted to the Nevada Bar.
2006
13. Name states (other than Nevada) where you are or were admitted to practice law and your year of admission.
N/A
14. Have you ever been suspended, disbarred, or voluntarily resigned from the practice of law in Nevada or any other state? If so, describe the circumstance, dates, and locations.

No

15. Estimate what percentage of your work over the last five years has involved litigation matters, distinguishing between trial and appellate courts. For judges, answer questions 15-19 for the five years directly preceding your appointment or election to the bench.

Legal Discipline	Percentage of Practice
Domestic/family	30%
Juvenile matters	>1%
Trial court civil	15%
Appellate civil	0%
Trial court criminal	0%
Appellate criminal	0%
Administrative litigation	0%
Other: Please describe Probate, Guardianship, and Labor Law	55%

16. In the past five years, what percentage of your litigation matters involved cases set for jury trials vs. non-jury trials?
Almost 100% non-jury trials; only one set for jury trial (settled)
17. Give the approximate number of jury cases tried to a conclusion during the past five years with you as lead counsel. Give the approximate number of non-jury cases tried to a decision in the same period.
0 Jury Trials
20 non-jury trials & labor arbitrations/fact-findings/FMCS mediation
18. List courts and counties in any state where you have practiced in the past five years.
I have only practiced law in Nevada. I have practiced in the following courts:
- First Judicial District Court in Carson City and Storey County
 - Carson City Justice Court and Small Claims
 - Second Judicial District Court in Washoe County
 - Third Judicial District Court in Lyon County
 - Fourth Judicial District Court in Elko County
 - Sixth Judicial District Court in Humboldt County
 - Seventh Judicial District Court in Eureka County
 - Eighth Judicial District Court in Clark County
 - Ninth Judicial District Court in Douglas County
 - Douglas County Justice Court, East Fork Township
 - Tenth Judicial District Court in Churchill County
 - Eleventh Judicial District Court in Pershing County

19. List by case name and date the five cases of most significance to you (not including cases pending in which you have been involved), complete the following tables:

Case 1
Case name and date: Trackman v. Sierra Country, Inc., et al December 2009
Court and presiding judge and all counsel: United States District Court, District of Nevada District Judge Larry R. Hicks Plaintiff's Counsel: Allison MacKenzie, Ltd. Joan C. Wright and Joel W. Locke Defendants' Counsel: Alling & Jillson, Ltd. James R. Hales; Taggart & Taggart, Ltd. Paul G. Taggart and Tyler M. Elcano
Importance of the case to you and the case's impact on you: This case was a federal Citizen Suit brought under the Safe Drinking Water Act to enforce compliance with primary drinking water standards. The water in this small public water system had lead and copper levels consistently testing at levels exceeding the maximum contaminant level under both federal and state law. Residents were getting sick due to the high levels of lead and copper. I was involved in this case from pre-filing until prevailing on a Motion for Summary Judgment signed the Friday prior to trial. I learned so much about the life of a case and the preparation necessary to bring and complete a complicated federal lawsuit.
Your role in the case: Plaintiff's Counsel (2 nd Chair)

Case 2
Case name and date: C&A Investments, LLC, v. Jiangson Duke, LLC et al June 2017
Court and presiding judge and all counsel: First Judicial District Court of the State of Nevada, in and for Carson City Senior District Judge William A. Maddox Plaintiff's Counsel: Allison MacKenzie, Ltd. Ryan D. Russell and Joel W. Locke Defendants' Counsel: Guild, Gallagher & Fuller, Ltd. John K. Gallagher; Winter Street Law Group Richard Salvatore
Importance of the case to you and the case's impact on you: This case was especially important to me because it was the first time that I had the opportunity to try a case with one of my best friends of over 30 years, Ryan D. Russell. Further, we tried the case in front of our mentors, Senior Judge William A. Maddox. Ryan served as his law clerk three years prior to me serving as his law clerk. The underlying case was very important to us as long-time Carson City residents because it involved one of Carson City's two worst commercial properties: the old Super Kmart (the worst being The Ormsby House). The core issue in the case was whether the use restrictions on the land should be removed because they had no appreciable benefit, and arguably, were detrimental to the owners. This case is still on appeal at the Nevada Supreme Court.
Your role in the case: Plaintiff's Counsel (Co-Lead)

Case 3
Case name and date: In the Matter of the Parental Rights as to O.J.B. and P.J. B. Minor children and corresponding case In the Matter of the Petition for Adoption of O.J.B. and P.J.B. June 2021, and February 2022
Court and presiding judge and all counsel: District Court Judge James E. Wilson, Jr. and District Court Judge Kristin N. Luis Petitioner's Counsel: MOBO Law Chad Pace Respondent's Counsel: Allison MacKenzie, Ltd. Joel W. Locke Children's Counsel: Aaron Bushur
Importance of the case to you and the case's impact on you: I have practiced family law for over 12 years, and the cases can be emotional and difficult. I believe the most difficult family law cases are relocation cases and termination of parental rights cases. In 2021, I received a call from Judge Wilson who asked if I would accept an appointment to serve as counsel for a mother whose rights were subject to termination. Not only are these difficult cases, but the statutory pay is one-fourth of my normal hourly rate. However, when a Judge asks for help, I accept. The first time I met with my client she had been clean and sober for less than a couple of months. She had been an addict for almost her entire life and the last time she was drug free was three years prior when she was pregnant with her twins. It was clear after meeting with her that she had no relationship or connection with the children due to her drug use. It was very likely that her rights would be terminated if we proceeded with a hearing. It was heartbreaking to see her acknowledge that it was in the best interest of the children to consent to the termination, but we were able to negotiate a post-adoptive visitation plan for her if she maintained her sobriety. She had to finish her Court ordered post-conviction program, get a job, continue counseling, and most importantly remain sober for one solid year. Not only did she complete the year, but she is also now over three years clean and has monthly visits with the twins. She did the work. It was hard work, but she did it. I am so proud of her, and I keep the note she sent me after her very first visit with the children, and it reads in part: "I truly appreciate you supporting and helping me through this process. I know the kids will thank you one day too."
Your role in the case: Respondent's Counsel and Lead Attorney

Case 4
Case name and date: In the Matter of the Guardianship of the Person and Estate of Carmen Gomez Wittler, March 2018
Court and presiding judge and all counsel: District Court Judge James E. Wilson, Jr. and District Court Judge Kristin N. Luis Guardian's Counsel: Allison MacKenzie, Ltd. Joel W. Locke – Lead Attorney Protected Person's Counsel: Washoe Legal Services David Spitzer
Importance of the case to you and the case's impact on you: This was one of the first guardianship cases that I filed after the guardianship laws were completely overhauled in 2017. The devastating facts of this case highlighted some of the obvious and dangerous gaps that the new laws contained. I represented Eric Wittler, the 32 year old son of Carmen Wittler. Carmen suffers from Huntington's Disease, which is an

incurable neurodegenerative disease. She had suffered from this disease for several years and was subject to guardianship in Kansas with her husband serving as guardian. He obtained a divorce and terminated the guardianship. Carmen went to live with some of her siblings in various states in the Midwest. Her siblings could not provide Carmen with the requisite care and she often absconded and lived on the street. In fact, when she was found by her sister, she was 80 lbs., homeless and living behind vending machines at a local motel. Eric intervened and moved Carmen to Carson City. She was found to be unable to care for herself and at substantial and immediate risk of physical harm. She was admitted to a 24-hour locked facility in Carson City and Eric pursued a Temporary Guardianship so that he could obtain medical and financial powers to take care of her. Washoe Legal Services was appointed as her counsel and immediately filed a Motion to Dismiss Guardianship for lack of jurisdiction over the protected person. Judge Wilson disagreed and WLS appealed to the Supreme Court. In short, the case remained in Nevada and Carmen is still receiving the care she needs. This case taught me that there are gaps in the law, but that the people who are in the most need of protection, should not fall through them and become casualties of the law.

Your role in the case:

Guardian's Counsel – Lead attorney

Case 5

Case name and date:

Summit Plumbing, LLC v. James Thulin February, 2008

Court and presiding judge and all counsel:

Tahoe Justice Court, Douglas County, Nevada Justice of the Peace Richard Glasson

Plaintiff's Counsel: Allison MacKenzie, Ltd. Joel W. Locke

Defendant's Counsel: Hale Lane Robert Smith; Alling & Jillson, Ltd. Gregory D. Ott

Importance of the case to you and the case's impact on you:

You never forget your first bench trial. This case was a Mechanic's Lien action and enforcement of the same against a homeowner at Stateline. The underlying facts of the case were rather ordinary (frozen pipe under snow and ice blocked a sewer line and caused sewage back up), but the characters and the one-day trial were extraordinary. After the emergency repairs were made to the Defendant's residence, he refused to pay Summit. When Summit recorded and perfected its lien, Defendant started making threats of violence against Summit employees. I was hired to send a demand letter for collection and enforcement of the lien and after facing similar threats, it was discovered that the Defendant had recently been released from California state prison for attempting to murder a victim and burglary. The case proceeded to trial after multiple attempted delays including when the Defendant switched counsel near the trial date to get a continuance, but the judge denied the request. At trial, the Defendant was hung over and belligerent on the stand and again made threats against Summit employees in the hallway. Summit prevailed on its claim and was awarded the full amount of the invoiced work, plus all attorneys' fees and costs, which were, after nearly two years of delays and frivolous motions, four times the amount of the invoice for the work.

Your role in the case:

Plaintiff's Counsel – Lead attorney

20. Do you now serve, or have you previously served as a mediator, an arbitrator, a part-time or full-time judicial officer, or a quasi-judicial officer? To the extent possible, explain each experience.

Yes

As indicated above, I have served as a Judge Pro Tempore in the Carson City Justice & Municipal Court since December 2013. Further, I have served as a Juvenile Magistrate (part-time) since May 2022. As a Judge Pro Tempore, I have presided over a variety of cases ranging from Category A Felony Preliminary Hearings to Traffic citation trials. Depending on the need of the Court, I have filled in from once per month, to five days per month over the last decade.

21. Describe any pro bono or public interest work as an attorney.

Pro bono work has always been important to me. I was a new attorney when the "Great Recession" began, so I took the opportunity to volunteer as a "Lawyer in the Lobby" at the Supreme Court, and started taking pro bono cases in areas of law that I did not know how to practice. This allowed me to learn an area of law while helping those that could not afford an attorney. This is how I learned Guardianship Law. In 2017 this area of law dramatically changed and each protected person was appointed an attorney. At the time, Washoe Legal Services received funding to contract with the rural counties to provide legal services, but they were stretched thin and did not have significant resources. In Carson City, they were contracted to take a certain number of cases and soon, their contract was "filled." I met with Judges James T. Russell and James E. Wilson, Jr. and volunteered to represent protected persons in the Carson City District Court. I, together with several attorneys at Allison MacKenzie, Ltd., provided services at no charge for over 20 protected persons. I still represent many to this day.

22. List all bar associations and professional societies of which you are or have been a member. Give titles and dates of offices held. List chairs or committees in such groups you believe to be of significance. Exclude information regarding your political affiliation.

- State Bar of Nevada, American Bar Association, First Judicial District Bar Association, Washoe County Bar Association, Ninth Judicial District Bar Association
- I have served on the Nevada State Board of Governors since 2019
- I served on the Nevada Commission on Judicial Selection from 2021-2024
- I served on the Nevada State Bar Family Law Executive Council from 2018-2019

23. List all courses, seminars, or institutes you have attended relating to continuing legal education during the past five years. Are you in compliance with the continuing legal education requirements applicable to you as a lawyer or judge?

I am in compliance with the continuing legal education requirements through 2024. The CLE courses I have taken in the last five years are as follows:

07/16/2024 2023 Annual 13 Credit Bundle Videos

11/17/2023 View from the Federal Bench

11/14/2023 Behind the Scenes at the Nevada Supreme Court

11/08/2023 Ethics of Outsourcing: How to Grow Your Firm with Freelance Lawyers

11/06/2023 Ethics Lessons from HBO's Succession

11/06/2023 Preventing Business Burnout: A Panel Discussion

05/05/2023 Update in Arbitration Law

04/05/2023 Civility in the Legal Profession

11/04/2022 State Bar Board of Governors and State Bar of Nevada Updates

11/02/2022 Ethics Year in Review 2020

06/22/2022 State Bar of Nevada Annual Bar Conference

12/01/2021 Bar Exam Survey Participation

06/17/2021 2021 State Bar of Nevada Annual Bar Conference

12/23/2020 The Six Steps to Creating an Ethical & Efficient Family Law Firm

11/13/2020 Coronavirus: Mental Health & Substance Abuse

03/18/2020 Compulsive Behavior & Mental Well-Being

09/19/2019 Public Sector Negotiations, Overtime, & 2019 HR Legislative Updates

06/27/2019 State Bar of Nevada 2019 Annual Meeting

02/28/2019	30th Annual Family Law Conference
11/02/2018	As Judges See It: Top Mistakes Attorneys Make in Civil Litigation
07/14/2018	Substance Abuse & Mental Health in the Law Firm: Translating What We
07/14/2018	The Future of the Practice of Law (2018 Annual Meeting)
07/14/2018	The Rule of Law: Why Indigent Defense is Vital to Our Legal System
07/14/2018	U.S. Supreme Court Update
07/13/2018	Rules Versus Principles (2018 Annual Meeting)
07/13/2018	The Reptile & Black Letter Law (2018 Annual Meeting)
07/13/2018	Don't Let Being Pushed Down Get You Down: A Review of Court of Appeals
07/12/2018	New Amendments to the Nevada Rules of Civil Procedure: What Every Li
07/12/2018	Hot Coffee! Is Justice Being Served? (2018 Annual Meeting)

24. Do you have Professional Liability Insurance or do you work for a governmental agency?

Yes, I have Professional Liability Insurance and have maintained insurance for the last 17 years while I have been in private practice.

(THERE IS NO QUESTION 25.)

Business & Occupational Experience

26. Have you ever been engaged in any occupation, business, or profession other than a judicial officer or the practice of law? If yes, please list, including the dates of your involvement with the occupation, business, or profession.

I worked in the summers of 1992 and 1993 for a landscaping and maintenance company called "Graduate Lawn Mowers." I worked for Resource Concepts, Inc. in 1994 and 1995 as a part-time "runner." I worked for Carson City Parks and Recreation as a Latch Key Counselor in 1995 and 1996. I washed windows for Weber's Window Cleaning and Sparkle in 1996 and 1997. In college at UNR I worked for Fed Ex as a handler in 1997 and as a sales associate at Eddie Bauer in 1997 and 1998. I worked as a peak-time teller for Greater Nevada Credit Union in 1998 and 1999. I then worked as a Host at Catch a Rising Star Comedy Club in 1999. I was promoted to Maitre d in 2000. Upon graduation I was promoted to General Manager and performed CFO duties for the comedy clubs in Reno, Princeton, Las Vegas, and Atlanta, and worked there until law school in 2003.

I also worked as a part-time instructor at Western Nevada Community College from 2009-2011. I taught Real Property and Civil Procedure in the paralegal program.

27. Do you currently serve or have you in the past served as a manager, officer, or director of any business enterprise, including a law practice? If so, please provide details as to:
- a. the nature of the business
 - b. the nature of your duties
 - c. the extent of your involvement in the administration or management of the business
 - d. the terms of your service
 - e. the percentage of your ownership

As noted above, I was the General Manager of Catch a Rising Star Comedy Club at the Reno location from 2001-2003. I ran the daily operations for the Reno location and coordinated with the executive and entertainment managers at the Silver Legacy Resort Casino. I also performed quarterly financial reports for all of the locations and reported directly to the President and CEO of the company.

As a shareholder attorney at Allison MacKenzie, Ltd., I am one of seven shareholders, so my percentage ownership is 14.3%. I serve as Treasurer and am on several committees including Budget and Finance, Marketing, 401(k), and Trust Account & Insurance.

28. List experience as an executor, trustee, or in any other fiduciary capacity. Give name, address, position title, nature of your duties, terms of service and, if any, the percentage of your ownership.

None.

Civic Professional & Community Involvement

29. Have you ever held an elective or appointive public office in this or any other state?

No

Have you been a candidate for such an office?

No

If so, give details, including the offices involved, whether initially appointed or elected, and the length of service. Exclude political affiliation.

30. State significant activities in which you have taken part, giving dates and offices or leadership positions.

- Carson City Justice and Municipal Court Judge Pro Tem 2013-Present
- First Judicial District Court Juvenile Magistrate (Part-time) 2022-Present
- Nevada State Board of Governors 2019-Present
- Nevada Commission on Judicial Selection 2021-2024
- Nevada State Bar Family Law Executive Council 2018-2019
- Board Member, Ronald McDonald House Charities of Northern Nevada 2014-2018
- Board Member, Goni Canyon Preservation League 2014-2018
- Part-Time Instructor WNCC 2009-2011

31. Describe any courses taught at law schools or continuing education programs. Describe any lectures delivered at bar association conferences.

32.

I have taught continuing education programs in areas of Estate Planning and Probate, Labor Law, and Sexual Harassment

33. List educational, military service, service to your country, charitable, fraternal and church activities you deem significant. Indicate leadership positions.

- 1993-1996 Volunteer with Mexican Medical Ministries
- 2016-Present Volunteer Estate Planning Educational Series at St. Teresa of Avila Catholic Church
- 2018-Present Finance Council Member, St. Teresa of Avila Catholic Church
- 2021-Present Catholic Community Foundation Board Member, Reno Diocese Catholic Church

34. List honors, prizes, awards, or other forms of recognition.

- 2017 Legal Elite, Nevada Business Magazine

35. Have you at any time in the last 12 months belonged to, or do you currently belong to, any club or organization that in practice or policy restricts (or restricted during the time of your membership) its membership on the basis of race, religion, creed, national origin or sex? If so, detail the name and nature of the club(s) or organization(s), relevant policies and practices, and whether you intend to continue as a member if you are selected for this vacancy.

No

36. List books, articles, speeches and public statements published, or examples of opinions rendered, with citations and dates.

N/A

37. During the past ten years, have you been registered to vote?

Yes

Have you voted in the general elections held in those years?

Yes

38. List avocational interests and hobbies.

I enjoy any time I spend with my family. With five children at home, there are a variety of activities, including biking, hiking, camping, fishing, motocross, desert riding, hunting, and generally enjoying each other and the outdoors. I also enjoy quiet evenings on our deck around a fire pit or playing cards at the family table.

Conduct

39. Have you read the Nevada Code of Judicial Conduct and are you able to comply if appointed?

Yes

40. Have you ever been convicted of or formally found to be in violation of federal, state or local law, ordinance or regulation? Provide details of circumstances, charges, and dispositions.

Yes

In 1997 I was cited for parking in an unauthorized parking zone in Reno, Nevada. I paid the fine. In 2001 I pleaded guilty to driving under the influence of alcohol, first offense. I was driving home after working at Catch a Rising Star Comedy Club and having drinks. I should not have driven after drinking and am fortunate that I did not hurt anyone. I paid the fine and completed 40 hours of community service.

In about 2013, I was cited for basic speeding in Bend, Oregon. I paid the fine.

41. Have you ever been sanctioned, disciplined, reprimanded, found to have breached an ethics rule or to have acted unprofessionally by any judicial or bar association discipline commission, other professional organization or administrative body or military tribunal? If yes, explain. If the disciplinary action is confidential, please respond to the corresponding question in the confidential section.

No

42. Have you ever been dropped, suspended, disqualified, expelled, dismissed from, or placed on probation at any college, university, professional school or law school for any reason including scholastic, criminal, or moral? If yes, explain.

No

43. Have you ever been refused admission to or been released from any of the armed services for reasons other than honorable discharge? If yes, explain.

No

44. Has a lien ever been asserted against you or any property of yours that was not discharged within 30 days? If yes, explain.

No

45. Has any Bankruptcy Court in a case where you are or were the debtor, entered an order providing a creditor automatic relief from the bankruptcy stay (providing in rem relief) in any present or future bankruptcy case, related to property in which you have an interest?

No

46. Are you aware of anything that may require you to recuse or disqualify yourself from hearing a case if you are appointed to serve as a member of the judiciary? If so, please describe the circumstances where you may be required to recuse or disqualify yourself.

I have practiced in Carson City for over 17 years in civil private practice. I would have to recuse myself if there were a conflict, whether an actual client of mine, or imputed conflict from the law firm. This is customary and required by the Rules of Professional Conduct as well as the Judicial Cannons in the course of the practice of law.

Other

47. If you have previously submitted a questionnaire or Application to this or any other judicial nominating commission, please provide the name of the commission, the approximate date(s) of submission, and the result.

N/A

48. In no more than three pages (double spaced) attached to this Application, provide a statement describing what you believe sets you apart from your peers, and explains what education, experience, personality or character traits you possess, or have acquired, that you feel qualify you as a supreme court justice [*district court judge*]. In so doing, address appellate, civil (including family law matters), and criminal processes (including criminal sentencing).

See Attached Statement.

49. Detail any further information relative to your judicial candidacy that you desire to call to the attention of the members of the Commission on Judicial Selection.

When my family moved to Carson City in 1987 from Reno, I knew that this would be my home forever. I attended Carson City School District and graduated from Carson High. After graduating UNR and Gonzaga Law, I was privileged to be able to return to Carson City and raise my family in my hometown. I have been fortunate to have not only civil experience in family law, litigation, probate, guardianships, and administrative law, but also to have been a Pro Tempore Justice of the Peace for over a decade, hearing primarily criminal matters. My

legal background and experience, together with my deep ties to this community, best equips me to represent the people of Carson City and Storey County as a District Court Judge.

50. Attach a sample of no more than ten pages of your original writing in the form of a decision, "points and authorities," or appellate brief generated within the past five years, which demonstrates your ability to write in a logical, cohesive, concise, organized, and persuasive fashion.

See Attached Writing Sample.

Question 48 - Qualifications for First Judicial District Court Judge

While the minimum qualifications for a district judge can be found in NRS 3.060, they do not begin to address what it takes to be an excellent district judge in one of the most unique Judicial District Courts in Nevada. The First Judicial District is a general jurisdiction district where the judges hear criminal, civil, and family (including juvenile) law cases. In addition, any cases involving initiative/referendum petitions, elections, administrative appeals, or cases against the State, can only be brought in Carson City. This caseload is unlike any other court in Nevada.

In fiscal year 2023, over 2,700 cases were filed in the First Judicial District Court. Excluding the juvenile cases, 61% of the cases were family law, 20% were criminal law, and 19% were other civil law (including probates, guardianships, and civil litigation). I am uniquely qualified to serve as judge of the First Judicial District because my practice of law over the last 18 years tracks so closely with the caseload of the First Judicial District Court.

There are many attributes of a “good judge,” including balanced judicial temperament, impartiality, cognitive ability, patience, and integrity, but one of the most important attributes is the ability to integrate these qualities and provide justice to the members of the community. As a legal practitioner, I pride myself in having nurtured these qualities in myself, but what will set me apart from my peers as a judge for the First Judicial District Court is my connection to the community, my considerable civil experience, and my twelve years of experience as a Justice/Municipal/Juvenile Judge Pro Tem.

My connection to Carson City started very early in my life. I am a native Nevadan and was raised in Carson City. My elementary school is across the street from the courthouse, and I graduated from Carson High School. I returned to Carson City after law school and my wife and I love our community and raising our five children here. I have served as Carson City’s Nevada

State Bar Board of Governor's representative since 2019 and it is my job to have my finger on the pulse of the legal community in my district. Recently, the courts in Carson City (Justice and District), which have been incredibly stable and consistent over the years, have experienced a large amount of turnover. Judges John Tatro, James E. Wilson, Jr., and James T. Russell, have all retired within the last 5 years. I served as a member of the Nevada Judicial Selection Commission to fill these and other seats from 2021 until 2024. Also, during this time, I served as a Judge Pro Tem and filled in several times per month at the Justice Court level to ensure that the cases could be processed in an expeditious manner. I have excellent relationships with all the court staff and have done my utmost to help stabilize the court calendar by filling in when asked.

As a civil practitioner in Carson City, I have primarily practiced in family law, probate, guardianship, and complex civil litigation. When I joined Allison MacKenzie, Ltd., I assisted on several family law matters with supervising attorneys. When the Great Recession hit in 2008, a great number of family law cases were initiated. I vigorously represented by clients and litigated over 100 cases in the decade that followed. More importantly, I was able to settle approximately 80-90% of the contested cases that I took. I was nominated to act as a member of the Family Law Executive Council in 2018 and served as a councilmember for two years before being elected to the Nevada State Bar Board of Governors in 2019. Over 60% of the cases filed in the First Judicial District are family law. I have been a state-wide leader in family law for over a decade.

In other civil matters, I have litigated dozens of civil litigation cases ranging from complex Federal Citizen Suit Safe Drinking Water Act actions to minor landlord/tenant eviction actions. I have also administered hundreds of probate administrations and have been appointed in dozens of pro bono adult guardianship cases to represent the protected persons in order to fill the gap in contract coverage between the First Judicial District and Northern Nevada Legal Services. Further,

I currently represent counties, cities, and school districts regarding collective bargaining agreements with their employees. I also represent these public entities in all of their employment mediations, arbitrations, or post-disciplinary proceedings. I represent boards, commissions, and councils and I am well versed in the Open Meeting Law and have provided guidance over the last decade to boards regarding compliance with the same. I have also personally conducted over two dozen internal affairs-type independent investigations for several counties, cities, and law enforcement agencies consistent with the mandatory requirements of NRS Chapters 288 and 289.

I am not a prosecutor nor a criminal defense attorney. However, in 2013, I was nominated by the sitting judges to serve as a Justice of the Peace Pro Tem. I have heard thousands of criminal cases since 2013 and currently still cover the full case load of any judge that is temporarily unavailable. I have heard cases ranging from minor traffic violations to Category “A” felony charges involving drugs or sexual assault. The most difficult case I heard was a preliminary hearing involving statutory rape and incest. The 15-year-old victim had to appear and testify against her brother, and it was emotional and tragic, but ultimately led to a guilty plea. I treat every defendant with kindness and respect and acknowledge that when they are appearing in Court, this might just be one of the worst days they have experienced. The most important thing I learned as a judge can be summed up by quoting Judge Russell; “as a judge, leave your politics, your religion, and your friends at the door, and serve justice.”

I am the ideal jurist, based upon my commitment to my community and my experience, to be appointed to the seat of Judge James T. Russell. It is certainly a big seat to fill, but I have the community awareness, the civil experience, and the criminal experience through serving as the Judge Pro Tem to be the best candidate as the newest judge in the First Judicial District Court in and for Carson City and Storey County.

1 IN ARBITRATION PROCEEDINGS BEFORE
2 RICHARD D. FINCHER, ARBITRATOR

3 In the Matter of a Dispute between:

4 HUMBOLDT COUNTY SUPPORT
5 STAFF ORGANIZATION,

6 and

7 HUMBOLDT COUNTY SCHOOL DISTRICT.

8 (Termination of ***** Rodriguez)
9 _____ /

10 **HUMBOLDT COUNTY SCHOOL DISTRICT'S PREHEARING BRIEF**

11 COMES NOW, HUMBOLDT COUNTY SCHOOL DISTRICT ("HCS D"), by and
12 through its attorney, Joel W. Locke, Esq. of ALLISON MacKENZIE, LTD., and hereby submits its
13 Prehearing Brief, as follows:

14 I.

15 **FACTUAL BACKGROUND**

16 ***** Rodriguez ("Rodriguez") was hired on October 1, 2018, as a custodian at
17 Winnemucca Grammar School ("WGS") and was assigned the night shift, which works from 2:30p.m.
18 until 11:00p.m. Monday through Friday. On June 3, 2019, he received his annual evaluation from the
19 principal, Jonathan Reynolds, which he scored an overall "Good" evaluation. In the comments
20 section, the principal states, in relevant part: "***** is new to WGS this year. He is learning the job
21 and sometimes struggles with instruction." See Exhibit 16 of Joint Exhibits.

22 The following school year, Colby Corbitt ("Corbitt") took over as principal of WGS
23 and on August 23, 2019, provided Rodriguez a Memo regarding "Custodial Duties." See Exhibit 2 of
24 Joint Exhibits. The Memo clearly outlined Rodriguez's custodial duties, time expectations, and shift
25 responsibilities. This Memo was given to Rodriguez to correct deficiencies evident to Corbitt early in
26 the school year and in his term as principal. Thereafter on October 30, 2019, Corbitt issued Rodriguez
27 a 24-Hour Notification for an investigative interview regarding four (4) instances of job performance
28 at lower than expectations for night-time custodian at WGS. See Exhibit 3 of Joint Exhibits. Following

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1 the meeting held on November 8, 2019 to address the expectations for Rodriguez job performance
2 moving forward, on November 25, 2019, Corbitt issued a Letter of Expectation to Rodriguez. See
3 Exhibit 4 of Joint Exhibits. Rodriguez signed the Letter of Expectation, which included training,
4 support, and feedback to ensure his job performance met expectations in the future.

5 On or about June 2, 2020, Rodriguez was provided his annual evaluation by Corbitt.
6 Rodriguez earned an Unsatisfactory evaluation, which is the lowest rating available. See Exhibit 17 of
7 Joint Exhibits. On that same date, Corbitt issued a 24-Hour Notification for a meeting to discuss a
8 Plan of Assistance/Improvement following his unsatisfactory evaluation. See Exhibit 5 of Joint
9 Exhibits. On June 10, 2020, Corbitt also delivered to Rodriguez a Plan of Improvement which outlined
10 his job description, the steps taken to improve his job performance, and additional steps to be taken
11 by WGS administration to assist him. Finally, it stated that he may be subject to disciplinary action
12 including suspension, demotion, dismissal, and refusal to re-employ should he not meet the
13 expectations of his position. See Exhibit 6 of Joint Exhibits.

14 Thereafter on October 19, 2020, Corbitt send Rodriguez a 24-Hour Notification for a
15 meeting to address deficiencies in his job performance arising out of his Plan of Improvement. See
16 Exhibit 7 of Joint Exhibits. At the meeting on October 23, 2020, Corbitt appeared on behalf of WGS
17 and Rodriguez appeared with his union representative, Andrea Kelly (“Kelly”). Rodriguez was shown
18 pictures of WGS that had been “cleaned” by him but were still visibly dirty. During this meeting he
19 became confrontational with Corbitt and told him “I don’t have to tell you why I use wipes” and
20 alleged that teachers were discriminating against him. His own union representative reiterated to
21 Rodriguez that there are no signs of retaliation and that Corbitt is just trying to help him and is being
22 fair to him and told him to stop challenging the principal. See Exhibit 8 of Joint Exhibits.

23 On October 29, 2020, Corbitt provided Rodriguez another 24-Hour Notification for a
24 meeting to discuss disciplinary action of a five (5) day suspension and a Letter of Reprimand. See
25 Exhibit 10 of Joint Exhibits. On November 2, 2020 Corbitt provided Rodriguez a Letter of Reprimand
26 which outlined all of the actions taken since the August 23, 2019 job description Memo up to and
27 including the October 19, 2020 Investigative Interview in which Rodriguez admitted to not using the
28 HCSD mandated cleaning chemicals, and not following the new cleaning procedures enacted due to

1 COVID-19. See Exhibit 10 of Joint Exhibits. On November 3, 2020, Corbitt issued a Follow Up to
2 Letter of Reprimand to Rodriguez due to his request for additional training to correct his deficiencies.
3 See Exhibit 11 of Joint Exhibits. Corbitt arranged for a private COVID-19 cleaning procedures and
4 protocols, use of the tools as well as the specific cleaning needs of WGS due to the nature of the old
5 building. Id. On November 5 and 6, 2020, Rodriguez received training from his immediate supervisor,
6 Ismael Silva, Head of Maintenance, Mike Formby, and Maintenance Supervisor, Andy Herrera. See
7 Exhibit 12 of Joint Exhibits.

8 Rodriguez returned to work on November 9, 2020 following his suspension and
9 training. On November 10, 2020, an unknown person defecated in the urinal in the old building of
10 WGS. A note was left on the outside door that the urinal was plugged and leaked water. See Exhibit
11 13 of Joint Exhibits. The feces were left in the urinal. There was no school on November 11 and on
12 November 12, the note was found with the uncleaned urinal. The feces sat in the urinal for 36 hours
13 before being cleaned by the day shift custodian, Ismael Silva. Upon review of the video on November
14 10, 2020, Rodriguez was seen entering the bathroom, spending a few minutes in the bathroom, then
15 exiting at 7:36 p.m. and leaving the note. There were three (3) more hours on his shift, but Rodriguez
16 failed to clean the feces from the urinal. In light of the COVID-19 viral fecal shedding (where the
17 virus can be transmitted through feces), it was imperative that Rodriguez clean the feces from the
18 urinal He failed to clean the entire bathroom and left it for his supervisor to clean days later.

19 On November 13, 2020, Corbitt issued Rodriguez a Letter of Termination. See Exhibit
20 14 of Joint Exhibits. Thereafter Rodriguez appealed the Termination to the School Board (Step 4) and
21 alleged that HCSD violated CBA Articles 7-1 (Just Cause), 7-12 (Progressive Discipline), and 7-13
22 (Discrimination). The hearing was held on January 12, 2001, and the HCSD Board President issued
23 a decision on January 22, 2021, finding that HCSD had proved that it had just cause to terminate
24 Rodriguez, that WGS had provided ample opportunities and progressive discipline to Rodriguez to
25 assist him in correcting his job performance, and that there was no evidence of Discrimination. See
26 Exhibit 15 of Joint Exhibits.

27 ///

28 ///

1 II.

2 APPLICABLE PROVISIONS OF CBA

3 Article 7-1 provides that no post-probationary employee will be disciplined, suspended,
4 demoted, dismissed, or terminated without just cause. See Exhibit 1 of Joint Exhibits at HC0011.
5 Article 7-12 provides for the Five Levels of Progressive Discipline, being Verbal Warning, Written
6 Warning, Reprimand, Suspension, and Dismissal. Id. at HC0013 and 0014. Article 7-13 provides for
7 HCSD's anti-discrimination policy based on race, religion, color, national origin, sex, sexual
8 orientation, handicap, marital status, employment organization or political affiliation, age or for
9 purposes of evading the spirit of the Agreement. Id. at HC0014.

10 III.

11 ARGUMENT

12 1. HCSD had Just Cause to Terminate Rodriguez.

13 In the present case, HCSD will show that Rodriguez was not terminated for a single
14 incident of failing to remove fecal matter from a urinal, but instead that he was terminated as a result
15 of a pattern spanning over two (2) years of inadequate job performance, unprofessional behavior, and
16 insubordination. The termination was based on cumulative instances of disciplinary action, combined
17 with ongoing lack of professional development, which culminated in a demonstrative inability to meet
18 the performance requirements of a custodian at WGS. Further, the basic inability to effectively clean
19 classrooms, bathrooms, and other areas of WGS during the height of the COVID-19 pandemic was
20 particularly egregious.

21 Specifically, on August 23, 2019, two (2) full years prior to his termination, Rodriguez
22 was provided a Memo that detailed the Expectations for a custodian. Thereafter, following additional
23 complaints and evidence of his lackluster job performance, Rodriguez was provided a Letter of
24 Expectation on November 25, 2019. Additionally, following an unsatisfactory evaluation in May of
25 2020, he was provided additional training and offered a Plan of Improvement on June 10, 2020. On
26 October 19, 2020 Rodriguez was subject of an Investigative Interview required by Article 7-10 which
27 resulted in a Letter of Reprimand for inadequate performance in the workplace, unprofessional
28 behavior, and insubordination. He was suspended for five (5) days without pay, but at his request,

1 was provided two (2) full days of paid training by the HCSD Maintenance Department. Thereafter,
2 the day after returning to work after the suspension, he violated COVID-19 safety and cleaning
3 protocols by failing to remove feces from a urinal, and failing to clean the entire bathroom leaving the
4 job to the day custodian days later. Cleaning and sanitizing of all surfaces is the primary concern for
5 the safety of the students and staff during the COVID-19 pandemic. Despite completing two (2) full
6 days of comprehensive training prior to returning to work, he violated HCSD's primary safety concern.

7 HCSD had just cause to terminate Rodriguez after two (2) years of unsatisfactory work
8 performance.

9 2. HCSD Complied with Article 7-12 Progressive Discipline.

10 HCSD followed the Progressive Discipline outlined in Article 7-12 prior to terminating
11 Rodriguez. Level 1 of Progressive Discipline is a verbal warning. On August 23, 2019, Corbitt issued
12 Rodriguez a Memo outlining his custodial duties and expectations for adequate job performance.
13 Thereafter on October 30, 2019 Corbitt issued a Notice of Meeting in which Rodriguez was provided
14 a verbal warning for four (4) incidents outlined as deficient in his job performance.

15 Level 2 of Progressive Discipline is a written warning. On November 25, 2019 Corbitt
16 provided a written warning in a Letter of Expectation, but also offered Rodriguez training to correct
17 his behavior. In May of 2020, Rodriguez received an unsatisfactory evaluation and was provided with
18 a Plan of Improvement on June 10, 2020. On October 19, 2020 Rodriguez was provided with a Notice
19 of Investigation Interview to review evidence of his continued inability to perform the duties of
20 custodian.

21 Level 3 of Progressive Discipline is Reprimand. Following a Meeting on October 23,
22 2020, Rodriguez was provided a Letter of Reprimand for his unsatisfactory job performance. See
23 Exhibit 10 to Joint Exhibits.

24 Level 4 of Progressive Discipline is Suspension. Following the receipt of the Letter of
25 Reprimand, Corbitt send a follow up to Letter of Reprimand which suspended Rodriguez for five (5)
26 days without pay, but also provided him two (2) days of paid training from the Director of Maintenance
27 and his immediate supervisor. Rodriguez completed the training and signed the receipt of the training
28 acknowledging that he understood the expectations for his job as a custodian.

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1 Level 5 of Progressive Discipline is Dismissal. Following the first 4 levels of
2 Progressive Discipline for more than two (2) years, Rodriguez was terminated on November 13, 2020,
3 following his failure to meet HCSD's primary concern during COVID-19, which is safety and cleaning
4 protocols when he left feces in a urinal for several days and did not clean it or the entire bathroom.

5 As noted herein, each level of Progressive Discipline as contemplated by Article 7-12
6 of the Agreement was followed by HCSD so this claim must fail.

7 3. HCSD did not Discriminate Against Rodriguez.

8 During the meeting between Corbitt, Rodriguez and his union representative on
9 October 23, 2020, was the first occasion that Rodriguez stated he was being targeted by teachers and
10 retaliated against. Corbitt explained that the teachers are not singling him out but want and need clean
11 rooms so that the students are safe. The union representative, Kelly, also reiterated to Rodriguez that
12 there were no signs of retaliation and that the administration was being fair with him, and he needed
13 to just do his job. See Exhibit 8 of Joint Exhibits.

14 Further, at the Step 4 Grievance hearing, the School Board found that Rodriguez "failed
15 to provide any specific relevant evidence to support such a claim" of Discrimination. If there is no
16 evidence, then this claim must also fail.

17 IV.

18 CONCLUSION

19 Upon the foregoing, HCSD seeks that the Arbitrator find that HCSD had just cause to
20 terminate and dismiss Rodriguez, followed Article 7-12's requirement for Progressive Discipline, and
21 did not discriminate against Rodriguez as contemplated under Article 7-13.

22 DATED this 25th day of May 2021.

23 ALLISON MacKENZIE, LTD.

24 By:

25 /s/
26 JOEL W. LOCKE, Esq.
27 Nevada State Bar No. 10128
28 Attorneys for HCSD