

FILED  
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KANSAS BOARD FOR  
DISCIPLINE OF ATTORNEYS

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IN THE SUPREME COURT OF KANSAS  
BEFORE  
THE KANSAS BOARD FOR DISCIPLINE OF ATTORNEYS

IN THE MATTER OF )  
 )  
SUZANNE VALDEZ, ) DA 13,674  
 )  
Respondent. )

Pursuant to K.S.A. Chapter 23

**FORMAL COMPLAINT**

COMES NOW Kimberly K. Bonifas, Special Prosecutor, under the Supreme Court Relating to Discipline of Attorneys and for this Formal Complaint alleges and states the following:

1. The Respondent, Suzanne Valdez, is an attorney at law, with Kansas attorney registration number 17799. The Kansas Supreme Court admitted the Respondent to the practice of law on September 27, 1996. The Respondent's current registration address with the Office of Judicial Administration is as follows: Douglas County District Attorney's Office, Judicial and Law Enforcement Center, 111 E. 11<sup>th</sup> St., Lawrence, Kansas 66044.

2. On November 4, 2020, the Respondent was elected as the Douglas County District Attorney.

3. On December 18, 2020 an "open house" was hosted at the Douglas County Fairgrounds as a site for remote court proceedings during the COVID-19 pandemic and members of the local bar, including the Respondent and other district attorneys, attended.

4. On January 11, 2021, the Respondent started the position of Douglas County District Attorney.

5. On February 24, 2021, the Respondent and other district attorneys met with Chief District Court Judge James McCabria regarding upcoming trials.

6. On March 5, 2021, the Respondent and other district attorneys met with Chief District Court Judge James McCabria and Judge Amy Hanley regarding upcoming trials.

7. On March 18, 2021, Douglas County District Court issued a press release on the planned resumption of jury trials, which had been suspended since early 2020 due to the COVID-19 pandemic. The article explained that jury trials would resume in April and be held at either the Judicial and Law Enforcement Center or two new locations at the Douglas County Fairgrounds. Chief District Court Judge James McCabria provided the following quote:

"If we didn't believe we could provide a safe secure and fair location for jury trials, we would not ask the public or the parties to participate. We've consulted with all of the stakeholders, we've sought guidance from health experts throughout the pandemic, and we are confident that whether a trial occurs at the judicial center or the fairgrounds, this district is capable of resuming this important function for the community."

8. On March 22, 2021, the Respondent issued a press release refuting the Court's press release and stated:

"The District Attorney's Office was not consulted and is undoubtedly a stakeholder. Importantly, had I or my office been consulted by the District Court, we would have shared our concerns about holding trials during the COVID pandemic, as well as trying high level felony cases at the Douglas County Fairgrounds in a make shift courthouse where security is not guaranteed."

9. On that same date, Chief Judge McCabria issued a press release outlining information on the Court's efforts to consult with all stakeholders, including the District Attorney's Office and the Respondent, from September 2020 through March 2021.

10. That night, the Respondent sent text messages to Chief Judge McCabria that stated the following:

"You should be ashamed of yourself.  
We were TOLD, not consulted.  
The only reason you commented is because I am a Hispanic female I a position of power.  
I will she the light of truth  
I will shine the light of truth  
I will shine the light of truth on everything"

11. Judge McCabria did not respond to the Respondent's text messages.

12. On March 23, 2021, the Respondent issued another press release and ended it with the following assertions:

"Chief Judge McCabria did not ask for my advice or for my input regarding the April jury trial plan. To suggest that he and I met personally or consulted about the jury trial plan, or that he invited or asked for my or my office's input is simply false.

It is disappointing that Chief Judge McCabria has misrepresented my communication with him about the

legitimate public safety concerns I have about trying serious high level felony jury trials at the Fairgrounds. Unfortunately, this is yet another example of how an outspoken and honest woman is mischaracterized as untruthful by a male in power."

13. On that same date, Chief Judge McCabria responded with one sentence affirming his earlier statements and provided his emails with the Respondent, which documented the last two meetings they had on February 24, 2021 and March 5, 2021 about the jury trials.

14. The Respondent's press release was posted on the Douglas County District Attorney's Facebook page and the Respondent then shared it on social media to her personal (and public) Facebook page writing:

"Women of the world- be prepared! If you are hardworking, outspoken, honest, AND in a position of authority, the INSECURE MAN will try to tear you down. Not me, says I!! (fist bump emoji and strong-arm emoji)"

15. The next day on March 24, 2021, Judge Amy Hanley presided over a hearing in which the defendant's attorney, Shaye L. Downing, requested to make a record regarding *ex parte* communication that the Respondent had sent to Court about the defendant, which the defendant and his attorney had just learned about from the press release.

16. The *ex parte* communication was an email sent by the Respondent to Judge McCabria and Judge Hanley on March 3, 2021, that contained the defendant's name and made allegations about

the defendant by name, but didn't include the defendant's attorney.

17. The Respondent responded in the hearing by asserting on the record that she believed Judge McCabria had lied and had violated the ethical code.

18. The Respondent's anger towards the Court continued where as the District Attorney, as she yelled, cursed, bad-mouthed, and name-called the Chief Judge to other attorneys in her office.

19. The Respondent's unprofessional conduct created a negative atmosphere within the District Attorney's Office to the point where it was stressful and uncomfortable for other attorneys to practice law.

20. Attorneys left their jobs at the District Attorney's Office, in part or in whole, because of the Respondent's unprofessional conduct.

21. After several months, only one (1) attorney remained with the District Attorney's Office from prior to the Respondent being sworn in.

22. The Respondent has continued to bad-mouth the Chief Judge to others, even during this disciplinary process.

23. On May 12, 2021, when interviewed by Ronald E. Wurtz, the investigator on this ethics complaint, the Respondent initially denied that she called Judge McCabria a liar, but in

that same interview actually said, "He is a liar" and then bad-mouthed him further.

24. On August 4, 2021, the Respondent wrote an email to Debra Hughes with the Disciplinary Administrator's Office and referenced Judge McCabria as "sexist," but when asked detailed questions to substantiate this claim with any facts, the Respondent replied that it was just her opinion and didn't provide any factual basis for her claim.

25. The Respondent asked Ms. Hughes to speak with a former attorney from the District Attorney's office, Alice Walker, to find out "how sexist McCabria is." However, when asked, Alice Walker did not agree with the Respondent's allegation, and in fact, said just the opposite.

26. The Respondent has continued to exhibit discourteous conduct and makes personal attacks towards Chief Judge McCabria, even during this disciplinary process.

27. On August 16, 2021, Judge McCabria presided over an expungement hearing where the Respondent appeared for the State.

28. The Respondent was unhappy with the outcome from a prior case before Judge McCabria, where after recognizing the objection of the victim, the Court had granted an expungement.

29. In the August 16, 2021 hearing, when asked for the State's position on the expungement, the Respondent responded with the following comments about hearings set in front of Chief Judge McCabria:

"...honestly in light of the Court's willingness to grant expungement in these types of cases, as we've seen with Jarrett-- State of Kansas vs. Jarrett Rodgers, I don't really feel like we can-- having a hearing would only further traumatize the victim."

30. On March 30, 2022, the Respondent requested via email to move the entire June expungement docket, and the Court replied and denying the request to move the entire docket on the same date, and outlined the reasons.

31. Despite this, the Respondent later advised the Court in May of 2022 that her office would be closed and "unavailable for any court matters" on the date of the June expungement docket.

32. Chief Judge McCabria responded that the Respondent would need to follow the proper legal process for a continuance in each case so that notice and the opportunity to object was provided to the other side in all cases.

33. The Respondent responded with an email that stated:

"Judge McCabria,  
Please do not lecture me about professional courtesy when you have not shown any to me as DA.  
I will take time from my CLE to attend the June docket, but I will be sure to address this lack of professional courtesy on your part as public interest in judicial accountability grows."

34. On September 2, 2022, during a Bench-Bar meeting with the District Court judges and local attorneys, the Respondent made angry comments under her breath and then got up and walked out while Chief Judge McCabria was speaking.

35. The Respondent has refused her office to work with the Douglas District Court Judges on mutual court matters, due to her

anger about this disciplinary proceeding.

36. In November of 2021, the Respondent and her Assistant District Attorney, Josh Seiden, were scheduled to meet together with Judge Mark A. Simpson and county personnel about restarting the Assisted Outpatient Treatment program in Care and Treatment cases.

37. On the date of the meeting, November 19, 2021, Judge Simpson and a county representative arrived for the 9:00 a.m. meeting and waited, but the Respondent did not show up.

38. Judge Simpson later found an email sent by Mr. Seiden at 9:02 a.m. advising that the Respondent and he were not coming to the meeting because Judge Simpson's name appeared in the investigation report on this disciplinary matter, and that the Respondent's position was that the discussion was tabled until the disciplinary matter filed against her was resolved.

39. In Spring of 2023, Chief Judge McCabria and Judge Blake Glover had requested that the District Attorney's Office work together with them to help resolve the backlog of traffic cases.

40. Chief Judge McCabria and Judge Glover invited the Respondent and Assistant District Attorney, Josh Seiden, to review and discuss cases with them on this important issue.

41. On May 11, 2023, a news article was published about this disciplinary proceeding and immediately following it, Mr. Seiden told Judge Glover that the District Attorney's Office did not feel that they needed to cooperate in the case review



"because of this," and Mr. Seiden slid a copy of the news article across the desk to Judge Glover.

WHEREUPON, the Special Prosecutor, in accordance with Rule 203 (2022 Kan. S.Ct.R. at 253) alleges that the Respondent violated the following rules of professional conduct:

KRPC 8.2(a) (Judicial and Legal Officials)

KRPC 3.5(d) (Impartiality and Decorum of the Tribunal);

KRPC 8.4(d) (Misconduct); and

KRPC 8.4(g) (Misconduct);

as well as such other disciplinary rules as these allegations give notice of and which the evidence presented at the hearing on the formal complaint may prove.

WHEREFORE, the Special Prosecutor requests that a hearing panel conduct a hearing on the formal complaint; that the panel determine the merits of the allegations and violations alleged; that the panel issue a final hearing report; that the final hearing report set forth findings of fact based on clear and convincing evidence, conclusions of law, and a recommendation for discipline to the Supreme Court under Rule 225 (2022 Kan. S.Ct.R. at 281) and Rule 226 (2022 Kan. S.Ct.R. at 281); and that the panel make other findings and conclusions as the panel deems just and equitable.

Dated: August 14, 2023

Respectfully submitted,

By: 

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**NOTICE TO THE RESPONDENT**

YOU ARE HEREBY NOTIFIED THAT FORMAL DISCIPLINARY PROCEEDINGS HAVE BEEN COMMENCED AGAINST YOU BY THE FILING OF THIS FORMAL COMPLAINT WITH THE KANSAS BOARD FOR DISCIPLINE OF ATTORNEYS.

**Answer to Formal Complaint.** Under Rule 215 (2022 Kan. S. Ct. R. 267) you are required to file an answer to the formal complaint within 21 days of service. The answer must be filed with the Kansas Board for Discipline of Attorneys at 701 Southwest Jackson Street, First Floor, Topeka, Kansas 66603 or [kbda@kscourts.org](mailto:kbda@kscourts.org). A copy of the answer must be served on the Special Prosecutor and each hearing panel member. Failure to file an answer to this complaint may result in a temporary suspension of your license to practice law. Rule 213(b)(1) (2022 Kan. S. Ct. R. 266).

**Hearing, Rights, and Evidence.** At the hearing on the formal complaint you are be entitled to be represented by counsel, to cross-examine witnesses, and to present evidence. The hearing will be governed by the Rules of Evidence as set forth in the

Code of Civil Procedure. (K.S.A. 60-401 et seq.)

**Witness and Exhibit List Deadline.** Under Rule 224(b) (2022 Kan. S. Ct. R. 279), you are required to file witness and exhibits no later than 14 days after the answer to the formal complaint is due.

**Summary Submission Agreement.** Under Rule 223 (2022 Kan. S. Ct. R. 277), by agreement of the parties and approval by the board chair, a case may be submitted to the Supreme Court by summary submission agreement.

**Hearing Panel.** Under Rule 204(c) (2022 Kan. S. Ct. 253), the board chair appointed the following three attorneys to serve as the hearing panel and to conduct a hearing on the formal complaint:

Stacy L. Ortega, Presiding Officer  
[sortega@mcdonaldtinker.com](mailto:sortega@mcdonaldtinker.com)  
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Sylvia B. Penner  
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Penner Lowe  
245 N. Waco St., Ste. 125  
Wichita, KS 67202

**Service.** Under Rule 215 (2022 Kan. S. Ct. 263), original pleadings, motions, or documents to be filed in this disciplinary

proceeding should be served on the Kansas Board for Discipline of Attorneys by mailing to 701 Southwest Jackson Street, First Floor, Topeka, Kansas 66603-3729 or by email to [kbda@kscourts.org](mailto:kbda@kscourts.org). Copies of any pleadings, motions or documents to be filed in this disciplinary proceeding must be served on the Special Prosecutor and each hearing panel member.

**Procedural Rules.** Proceedings in this matter are governed by the Rules Relating to Discipline of Attorneys, Kansas Supreme Court Rules 200 through 240.

**Probation.** In disciplinary cases where misconduct has been found, the Supreme Court has imposed supervised probation on occasion. If you are interested in requesting that you be placed on probation, you are responsible for preparing the plan of probation. Kan. Sup. Ct. R. 227 (2022 Kan. S. Ct. R 283) sets forth the procedure to request probation. Please review the rule in its entirety. The rule requires that you provide disciplinary administrator and each hearing panel member with a workable, substantial, and detailed plan of probation at least 14 days prior to the hearing on the formal complaint. Additionally, the plan must contain adequate safeguards that will protect the public and ensure your full compliance with the rules and orders of the Court. At the hearing on the formal complaint, you must establish that the you have been complying with each condition in the probation plan for at least 14 days prior to the hearing.

**Aggravating and Mitigating Evidence.** If the hearing panel concludes that you violated any of the Kansas Rules of Professional Conduct, you should be prepared to present any testimony or evidence of mitigating circumstances at the hearing on the formal complaint. The disciplinary administrator will present evidence of any aggravating circumstances, including any prior disciplinary record. All evidence of aggravating and mitigating circumstances shall be presented at the hearing. *In re Mintz*, 298 Kan. 897, 912-20 (2014), and *In re Hall*, 304 Kan. 999, 1014 (2016) address the issue of aggravating and mitigating circumstances and should be carefully reviewed.

**Aggravating Circumstances.** Aggravation or aggravating circumstances are any considerations or factors that may justify an increase in the degree of discipline to be imposed. Factors which may be considered in aggravation by the hearing panel include:

- (a) prior disciplinary offenses;
- (b) dishonest or selfish motive;
- (c) a pattern of misconduct;
- (d) multiple offenses;
- (e) bad faith obstruction of the disciplinary proceeding by intentionally failing to comply with rules or orders of the disciplinary process;

(f) submission of false evidence, false statements, or other deceptive practices during the disciplinary process;

(g) refusal to acknowledge wrongful nature of conduct;

(h) vulnerability of victim;

(i) substantial experience in the practice of law;

(j) indifference to making restitution; and

(k) illegal conduct, including that involving the use of controlled substances.

**Mitigating Circumstances.** Mitigation or mitigating circumstances are any considerations or factors that may justify a reduction in the degree of discipline to be imposed. Mitigating factors will not excuse a violation and are to be considered only when determining the nature and extent of discipline to be administered. Factors which may be considered in mitigation by the hearing panel include:

(a) absence of a prior disciplinary record;

(b) absence of a dishonest or selfish motive;

(c) personal or emotional problems if such misfortunes have contributed to a violation of the Kansas Rules of Professional Conduct;

(d) timely good faith effort to make restitution or to rectify consequences of misconduct;

(e) the present and past attitude of the attorney as shown by his or her cooperation during the hearing and his or her full and free acknowledgment of the transgressions;

(f) inexperience in the practice of law;

(g) previous good character and reputation in the community including any letters from clients, friends, and lawyers in support of the character and general reputation of the attorney;

(h) physical disability;

(i) mental disability or chemical dependency including alcoholism or drug abuse when:

(1) there is medical evidence that the respondent is affected by a chemical dependency or mental disability;

(2) the chemical dependence or mental disability caused the misconduct;

(3) the respondent's recovery from the chemical dependency or mental disability is demonstrated by a meaningful and sustained period of successful rehabilitation; and

(4) the recovery arrested the misconduct and recurrence of that misconduct is unlikely.

(j) delay in disciplinary proceedings;

(k) imposition of other penalties or sanctions;

(l) remorse;

(m) remoteness of prior offenses; and

(n) any statement by the complainant expressing satisfaction with restitution and requesting no discipline.

**Factors Which are Neither Aggravating nor Mitigating.** The following factors will not be considered as either aggravating or mitigating by the hearing panel:

- (a) forced or compelled restitution;
- (b) agreeing to the client's demand for certain improper behavior or result;
- (c) withdrawal of complaint against the lawyer; and
- (d) failure of injured client to complain.

**CERTIFICATE OF SERVICE**

This is to certify that under Rule 215(a) (22 Kan.Sup.Ct.R. at 267), the original formal complaint was filed with the Kansas Board for Discipline of Attorneys and a copy of the above and foregoing Formal Complaint was served on the following persons via email and by depositing the same in the United States Mail, postage prepaid, on August 14, 2023:

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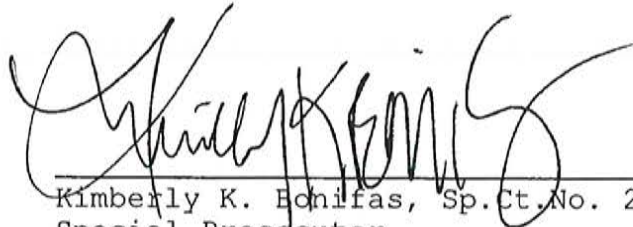
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