

STATE OF VERMONT
PROFESSIONAL RESPONSIBILITY PROGRAM

In Re: Norman Watts
PRB File Nos. 2019-102 and 2020-011

MOTION TO EXTEND SCHEDULING ORDER

Navah C. Spero, Esq., Specially Assigned Disciplinary Counsel (“Special Disciplinary Counsel”) in this matter, seeks an extension of the April 14, 2021 scheduling order as follows:.

Special Disciplinary Counsel seeks an extension of certain portions of the discovery order to accommodate the delays caused by Respondent’s refusal to comply with discovery deadlines. Special Disciplinary Counsel has complied with her discovery obligations, but has not received reciprocal cooperation from Respondent. As a result, there has been an ongoing discovery dispute since Respondent refused to timely provide documents on June 25, 2021. This dispute is described in detail in Special Disciplinary Counsel’s Request to Resolve Discovery Dispute, dated July 16, 2021, and Opposition to Notice to the Panel, dated September 1, 2021. Those filings are incorporated herein.

Because this case has stalled at the discovery stage, Special Disciplinary Counsel seeks an extension of paragraphs 8-11 of the April 14, 2021 Scheduling Order. Special Disciplinary Counsel requests an extension of all dates contained in those paragraphs to September 30, 2021 or thirty days after the Hearing Panel’s decision on any appropriate discovery sanctions. The reason for the extension requested for each paragraph is set forth below.

Paragraph 8 states: “Any motion to amend the petition of misconduct shall be filed by August 6, 2021, together with a memorandum setting forth the grounds for the motion.” This original schedule would have provided Special Disciplinary Counsel with approximately six weeks between receiving documents and determining whether any additional counts of

misconduct were appropriate. Special Disciplinary Counsel has not received any documents from Respondent. It is possible that amendment of the Petition of Misconduct would be appropriate if she received additional documents.

Paragraph 9 states: “Any and all other pre-hearing motions and supporting memoranda, including any motions *in limine*, shall be filed by August 20, 2021.” This paragraph would have given Special Disciplinary Counsel two months from the time documents were provided and three weeks after the close of discovery to file any appropriate motions. Because Special Disciplinary Counsel has been waiting for Respondent to provide additional documents, she has been unable to determine whether there will be any motions *in limine* or other pre-hearing motions in this matter. If, for example, the Hearing Panel grants Special Disciplinary Counsel’s request for sanctions and limits Respondent’s defenses, then motion practice would be limited.

Paragraph 10 states: “Any objection by a party to the hearing panel conducting the merits hearing in this matter remotely by video conferencing, together with a legal memorandum setting forth the grounds for the objection, shall be filed by July 2, 2021.” At this time Special Disciplinary Counsel is uncertain whether she will object to conducting the matter remotely, or ask for the hearing to be conducted partially in person and partially remotely. She does not currently anticipate objecting to a remote hearing, but depending on the documents produced by Respondent and the volume of impeachment exhibits that are anticipated, she may seek an in-person or partially in-person hearing.

Paragraph 11 states: “On or before August 20, 2021 each party shall file: (a) a witness list identifying each witness the party anticipates calling to testify during the merits hearing, along with an brief summary of the witness’s anticipated testimony, and an estimate of the amount of time that will be needed for direct examination; and (b) a list identifying each exhibit the party

anticipates presenting at the merits hearing, together with a representation as to whether or not the opposing party stipulates to either authenticity or admissibility of the exhibit or both; and (c) for purposes of scheduling the merits hearing in this matter, a list of three jointly proposed dates in October 2021 when both parties, their respective counsel, and their witnesses are all available to participate in the merits hearing.” Paragraph 11 presumes the parties were prepared to move forward with trial by August 20, 2021. Most of the activities require Special Disciplinary Counsel to know the identity of the documents, witnesses and exhibits in this case. This has been impossible due to Respondent’s refusal to cooperate in the discovery process. Because the outcome of the parties’ discovery dispute has not yet been determined by the Hearing Panel, it is not possible to identify exhibits, a witness list, or a summary of the witnesses’ testimony.

Special Disciplinary Counsel seeks an extension of each of these deadlines to September 30 or thirty days after the Hearing Panel rules on Special Disciplinary Counsel’s Request for Sanctions so that the scope of this case is fixed. In addition, Special Disciplinary Counsel will be out of the office on September 7-9. Such an extension would still allow a hearing to go forward in the second half of October or early November.

Dated: Burlington, Vermont
September 1, 2021

/s/ Navah C. Spero
Navah C. Spero, Esq.
Gravel & Shea PC
76 St. Paul Street, 7th Floor, P.O. Box 369
Burlington, VT 05402-0369
(802) 658-0220
nspero@gravelshea.com
Special Disciplinary Counsel

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CERTIFICATE OF SERVICE

I, Navah C. Spero, Esq., certify that, on September 1, 2021, I caused to be served my

Motion to Extend Scheduling Order as follows:

Via E-mail

Norman Watts, Esq.
Watts Law Firm, PC
P.O. Box 270
Quechee, VT 05059
nwatts@wattslawvt.com

Dated: Burlington, Vermont
September 1, 2021

/s/ Navah C. Spero

Navah C. Spero, Esq.
Gravel & Shea PC
76 St. Paul Street, 7th Floor, P.O. Box 369
Burlington, VT 05402-0369
(802) 658-0220
nspero@gravelshea.com
Specially Appointed Counsel