

STATE OF VERMONT
PROFESSIONAL RESPONSIBILITY BOARD

In re: Stuart Jay Robinson, Esq.
PRB File No. 2020-007 & PRB File No. 2021-099

ORDER ON PENDING MOTIONS AND SECOND AMENDED SCHEDULING ORDER

The proceedings under PRB File No. 2020-007 were initiated by the filing of a petition of misconduct in December 2020. Respondent, Stuart Jay Robinson, Esq., initially represented himself in the proceeding and filed an answer. A scheduling order was issued in the case and an amended scheduling order was subsequently issued in March 2021 in response to a request by the parties that followed Attorney William Gagnon's entry of appearance on behalf of Respondent. The amended scheduling order included various deadlines, including a deadline of July 1, 2021 for all discovery to be completed.

A second petition of misconduct was filed against Respondent by Disciplinary Counsel under PRB File No. 2021-099 on June 3, 2021.

On June 8, 2021, the parties jointly proposed a second amendment of the scheduling order based on the filing of the second petition; their representation that Respondent's counsel would be filing a motion to withdraw; and based on representations that Respondent was experiencing medical conditions that required some hospitalizations and out-of-state travel. The parties' proposed amendment would consolidate the two proceedings for purposes of remaining discovery and trial preparation. In addition, the parties proposed that the hearing on the merits be scheduled to take place in November 2021. The motion to amend the scheduling order requested a July 6, 2021 deadline for the Respondent to file a response to the second petition.

Attorney William Gagnon moved on June 29, 2021 to withdraw his appearance on behalf of Respondent, citing irreconcilable differences with his client. No objection has been asserted by Disciplinary Counsel. In addition, Respondent has recently requested a 30-day extension of

time to file a response to the second petition in light of his counsel's motion to withdraw.

Disciplinary Counsel does not oppose that request.

The Panel has reviewed the petitions of misconduct and other submissions in these proceedings and has in mind the parties' requests and the asserted grounds for the requests. The Panel must also take into consideration the public interest in securing a reasonably prompt resolution of the charges against Respondent. The Panel has in mind that a substantial amount of any discovery the parties might seek to pursue in these proceedings should have been completed by now under the two previous scheduling orders. Based on all of these considerations, the Panel issues the following Order and Second Amended Scheduling Order:

ORDER

1. Attorney William Gagnon's motion to withdraw is GRANTED. Going forward, Respondent is responsible for notifying Disciplinary Counsel and the Professional Responsibility Program Administrator of any changes to his mailing address and the email address that he used when representing himself in this proceeding before Attorney Gagnon entered an appearance in the case.

2. Respondent's motion for extension of time to file a response to the second petition is GRANTED. Respondent shall file his answer to the second petition no later than August 6, 2021;

3. PRB File No. 2020-007 and PRB File No. 2021-099 are hereby ordered CONSOLIDATED for purposes of remaining discovery, pre-hearing motions, and a hearing on the merits of the charges. The Program Administrator shall continue to maintain separate files for each proceeding; filings that pertain to both proceedings shall be duplicated and filed in both files.

4. The parties' Motion to Extend the Scheduling Order is GRANTED IN PART and DENIED IN PART, and otherwise modified as set forth in the Second Amended Scheduling

Order below. The Panel has modified the scheduling order to ensure a reasonably prompt resolution of the charges and, to that end, is proceeding with scheduling the merits hearing to take place in November 2021.

SECOND AMENDED SCHEDULING ORDER

The following scheduling order supersedes all prior scheduling orders:

1. Respondent shall file his answer to the second petition of misconduct no later than **August 6, 2021**.

2. Any objection to the hearing panel conducting the merits hearing remotely by video conferencing and the grounds for objection shall be filed no later than **September 1, 2021**.¹

3. To the extent that the parties have not yet exchanged the names of all persons having knowledge of relevant facts and/or of witnesses, they shall do so no later than **August 13, 2021**. Any remaining requests for production of documents shall be served no later than **August 27, 2021** and responses shall be filed no later than **September 17, 2021**. Any further depositions shall be completed no later than **October 1, 2021**.

4. All discovery shall be completed no later than **October 1, 2021**.

5. Any and all pre-hearing motions and supporting memoranda, including any motions in limine, shall be filed no later than **October 15, 2021**. Any opposition to a pre-hearing motion shall be filed no later than **October 29, 2021**.

¹ Subject to its consideration of any objections, the Hearing Panel presently expects to hold a remote hearing by video conferencing based on the direction in Paragraph 15(d)(ii) of A.O. 49 that “[t]o the maximum extent possible, evidentiary hearings [in PRB proceedings] should be conducted using remote video or audio conferencing.” A.O. 49 has been extended several times and the most recent amendments of A.O. 49 have left that provision unchanged. *See* Order Promulgating A.O. 49 Amendments, 6/25/21. Moreover, the Court Administrator has recently advised that while A.O. 49 will expire at some point, that will occur gradually and “on a different timetable than that established by the Governor”; that there are limited facilities throughout the state where in-person hearings can be safely conducted; and that the Judicial Branch is contemplating “a gradual expansion of in-person operations, rather than an all-at-once approach.” Memo, P. Gabel to Members of the Bar, 6/18/21.

6. On or before **November 1, 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 of the witness; and (b) a list jointly prepared by both parties identifying each exhibit each party anticipates presenting at the merits hearing, together with a representation as to whether or not the opposing party stipulates to authenticity or admissibility of the exhibit or both.

7. The hearing on the merits is hereby scheduled for one full-day hearing on **November 8, 2021**, commencing at 8:00 a.m. Respondent is entitled to be represented by a lawyer, to cross-examine witnesses, and to present evidence at the hearing. Following its consideration of any objection to a remote hearing, the Panel will issue a supplemental notice of hearing advising the parties whether the hearing will be conducted by remote video conferencing or whether it will take place in-person. In the event of a remote hearing by video conferencing, an online "invitation" and information related to the hearing will be provided to the parties. In the event of an in-person hearing, the location of the hearing will be provided to the parties. No later than **July 19, 2021**, the parties may, after conferring with each other, jointly propose for the Panel's consideration one of the following alternative dates for the hearing together with the grounds for requesting an alternative date: **November 9, 12, 15, 16, 19**.

Dated: July 12, 2021

Hearing Panel No. 6

By: 
Richard R. Goldsborough, Esq., Chair


Steven A. Adler, Esq.


Nicole Junas Ravlin, Public Member