

**SECTION I: PUBLIC INFORMATION
(QUESTIONS 1 THROUGH 47)**

Personal Information

1. Full Name: **My full name is Kristin Alyce McQueary**
2. Have you ever used or been known by any other legal name? **Yes.** If so, state name and reason for the name change. **My maiden name was Miller. I changed my last name when I got married.**
3. Work Address: **My current work address is 540 Court Street, Suite 2, Elko, NV 89801.**
4. How long have you been a continuous resident of Nevada? **I have been a continuous resident of Nevada since 1990. Nevada has been my home since 1972. I was a Utah resident for my final two years of law school, and then I returned to Nevada.**
5. Age: **I am 47 years old.**

Employment History

6. Using the format provided in Attachment "A" please start with your current employment or most recent employment, self-employment, and periods of unemployment for the twenty years immediately preceding the filing of this Application.

Current or Last Employer: Elko County District Attorney's Office

Phone Number: 775-738-3101

Address: 540 Court Street, Elko, NV 89801

From: May 1992 To: Present

Supervisor's Name: Mark Torvinen

Supervisor's Job Title: District Attorney

Your Title: Chief Civil Deputy

Specific Duties: My duties are to advise the elected county officials and appointed department heads. I advise the County Commission, the Elko County Planning Commission, the Elko County Board of Equalization, and various other boards on any legal questions they might have. I provide legal services for the Elko county Child Support Enforcement Division. I help write ordinances, provide advice on department heads are complying with state laws such as the Local Government Purchasing Act, the Open Meeting Law, and the Local Government Purchasing Act. I also advise the Assessor on tax assessment issues. I also deal with employment law issues,

law enforcement liability issues, collective bargaining agreement interpretation, real property transactions and road issues.

Reason for Leaving: I enjoy the wide variety of my job very much. Several people whose opinions I respect have asked me to apply for this position.

Previous Employer: Judge David Gamble

Phone Number: 775-782-9961

Address: 1625 8th Street, Minden, NV 89423

From: August 1990 **To:** May 1992

Supervisor's Name: Judge David Gamble

Supervisor's Job Title: District Judge

Your Title: Law Clerk

Specific Duties: I researched legal issues, drafted proposed orders, served as a bailiff for jury trials, and served as the sounding board for the Judge. I was also responsible updating the Douglas County law library. I also filled in for the judicial secretary when she was absent.

Reason for Leaving: I took a permanent job with the Elko County District Attorney's Office.

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.

Elko High School, 987 College Avenue, Elko, NV 89801. I attended 1978-1982, receiving a high school diploma.

Northeastern Nevada Community College (now Great Basin College), 1500 College Parkway, Elko, NV 89801, I took classes in 1981-1982 receiving dual credit for high school and college.

University of Nevada, Reno, 1664 N. Virginia Street, Reno, NV 89557, I attended 1982-1986, graduating with a Bachelor of Arts in Journalism.

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, I competed in debate and individual speaking events for four years. I was a reporter on the Elko High School newspaper, the Pow Wow. I played clarinet in the awarding winning Elko High School Band of Indians for four years. I served on the Elko High School Student Council for my senior year. I also participated in plays and musicals, both as a member of the set crew and as a performer. One year, I also worked on the yearbook. My jobs in high school included working at McDonald's and at my father's law office.

In college, I competed with the debate team, I also helped organize and run the largest collegiate debate tournament in the west, which was hosted by the UNR debate team. I was the production manager of the student newspaper, the Sagebrush, in 1984-1985.

I was the first senator for the College of Journalism in 1985-1986 for the Associate Students of the University of Nevada.

As an officer in the student chapter of the Society of Professional Journalists-Sigma Delta Chi, I was responsible for organizing the annual high school press day, with keynote speaker TV journalist Elizabeth Vargas. My internship with United Press International was also a significant learning experience for me. My internship resulted in my being hired by UPI.

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.

I attended the University of Utah College of Law from 1987 to 1990. I earned a Juris Doctorate in May of 1990. My GPA was 2.64. My law school class was ranked on a GPA distribution, which I have attached as Tab A.

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.

I worked for United Press International in the summer of 1988 in Carson City as a reporter. My supervisor was Cy Ryan. I worked the summer of 1989 updating the State Administrative Manual. I worked for the Nevada Department of Administration. Judy Matteucci (now Sheldrew) was the supervisor.

11. Describe significant law school activities including offices held, other leadership positions, clinics participated in, extracurricular activities.

I participated in extracurricular sports including flag football, softball, wallyball and running. I competed in the Race Judicata for the University of Utah team each year against in-state rival Brigham Young University Law School. I also took fitness classes at the YMCA in Salt Lake City. During school breaks, I worked in my father's law office in Elko.

Law Practice

12. State the year you were admitted to the Nevada Bar. **I was admitted in 1991.**

13. Name states (other than Nevada) where you are or were admitted to practice law and your year of admission.

I was admitted in Idaho in 1991, with an inactive status. I went to active status in 2009, for one case.

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 16-20 for the five years directly preceding your appointment or election to the bench.

I spend about 20 percent of my time on cases in litigation, including trial preparation, witness conferences, drafting pleadings, and court appearances. I spend less than two percent in appellant proceedings. I also prepare for employee grievance hearings and assist in arbitrations.

16. Estimate percentage of time spent on (1) domestic/family and juvenile law matters, (2) civil litigation, (3) criminal matters, and (4) administrative litigation.

I am the attorney the Elko County Child Support Enforcement Division. I appear in court approximately once a month. I also draft pleadings, provide legal advice to caseworkers, and work with the Coordinator in maintaining a high level of service. I estimate I spend about 15 to 20 percent of my time in child support. I am also backup for the juvenile attorney and I appear about every two months on juvenile delinquent cases or 432B cases. I estimate that I spend about 5 percent on juvenile. I spend about 20 percent of time on civil litigation issues or potential civil litigation issues, such as on-going cases, evaluating situations for liability. I spend less than 2 percent of my time on criminal matters. I typically prosecute one misdemeanor yearly. I also attend law and motion and drug court when the criminal attorneys are not available. I have not spent a lot of time in administrative litigation other than employee grievance and arbitrations. The bulk of my caseload is providing counsel for the Elko County Commission, Elko County Planning Commission, Elko County Board of Equalization, and I also provide legal advice on an as needed basis to town advisory boards, the Elko County Natural Resource management Advisory Commission, and the library board. I also advise elected and appointed department heads. I prepare deeds for real property transactions, review contracts, and draft ordinances.

17. In the past five years, what percentage of your litigation matters involved cases set for jury trials vs. non-jury trials?

All of my contested cases have been non-jury trials in the past five years.

18. 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.

In the past five years, I have not had any jury trials. I have had numerous cases such as child support appeals from the court master to the district court, child support appeals to the Nevada Supreme Court, juvenile delinquent petitions, 432B petitions, a couple of misdemeanors, and employee grievances, as well as planning and zoning appeals. I estimate I have participated in excess of 40 contested cases in the past five years.

19. List courts and counties in any state where you have practiced in the past five years.

**Fourth Judicial District Court and Family Court, Elko County, Nevada;
Nevada Federal District Court in Reno, Washoe County, Nevada;
Idaho Federal District Court, Boise, Idaho
Ninth Circuit Court of Appeals, San Francisco and Pasadena, California;**

**Nevada Supreme Court, Carson City, Nevada;
Nevada Bankruptcy Court in Reno, Nevada.
Elko Justice Court, Elko County, Nevada
Wells Justice Court, Elko County, Nevada
Jackpot Justice Court, Elko County, Nevada**

20. List by case name and date the five cases of most significance to you (not including cases pending in which you have been involved), and list or describe:
- a. case name and date,
 - b. court and presiding judge and all counsel
 - c. the importance of each case to you and the impact of each case on you,
 - d. your role in the case.

First. **United States v. Carpenter, 3:99-cv-00547-RLH-WGC.** The case is in Nevada federal district court, with Judge Roger Hunt presiding. Judge William Cobb is the magistrate. Counsel include Grant Gerber, Michael Freeman, Henry Egghart, Allison Flint, David Gehlert, Holly Vance, Blaine Welsh, Mark Torvinen and myself.

This is the infamous Jarbidge South Canyon Road dispute between Elko County and the group of private citizens known as the Shovel Brigade and the United States government. The events leading up to this lawsuit started with a flood in 1995, and a road repair in 1998.

The case has gone on so long that the original judge, Judge Hagen retired. Judge Roger Hunt took over the case. Judge Hunt has taken senior judge status. Federal Magistrate McQuaid, who helped the parties settle the case, has just retired with Magistrate William Cobb taking over. The lead attorney for the United States Attorney's Office Blaine Welsh has stepped back from day to day involvement. Former Elko County District Attorney Gary Woodbury has retired from the case as well. All of the original County Commissioners when the case started are no longer serving on the Commission. One of the individual defendants, O.Q. "Chris" Johnson, has died.

The Jarbidge case has been a legal and factual political education. I learned administrative law and procedure, was admitted in Nevada federal district court, the Ninth Circuit and the United States Supreme Court bars as a result of this case. I learned about bull trout biology, stream geomorphology, R.S. 2477 rights of way, the range sheep industry, 19th century government surveying, and geographical information system computerized mapping.

I learned about the tension between elected officials and levels of government, I learned about dealing with difficult and contrary political agendas, and I learned to maintain a certain distance from my clients. I also made life-long friends as a result of this case.

I have appeared in front of the Nevada Division of Environmental Protection, the Nevada Environmental Commission, state district court and the Nevada Supreme Court's settlement program. I have participated in federal court-ordered mediation, facilitated settlement negotiations, many federal district court appearances including an evidentiary hearing, two oral arguments at the Ninth Circuit Court of Appeals. I also helped write and edit a petition for certiorari to the United States Supreme Court. I testified at a congressional subcommittee hearing held in Elko.

The case is lurching along because a third party moved to intervene after Elko County and the federal government signed a settlement agreement in 2001. Elko County has filed a motion to dismiss for mootness, which has not been decided. The parties are arguing about discovery issues. Elko County and the federal government are now ironically roughly aligned against the Intervenors.

Second. In Re Independence Valley Ranch, LLC, BK-N-07-51215-GWZ. The case was in Bankruptcy Court in Reno. Judge Gregg Zive presided. Robert DeLong represented the entity which purchased the property out of the bankruptcy estate. The issue was whether the Elko County Assessor violated the bankruptcy stay by not granting the new property owner the agriculturally deferred taxes. I did not really understand the agriculture deferred tax system before this case. This case was an interesting intersection between Assessor's state statutorily-imposed duties and federal bankruptcy law. I argued the Assessor's position in bankruptcy court, and prevailed. I have included this case as my writing sample.

Third. Schneider v. Elko County, 119 Nev. 391 (2003). The Nevada Supreme Court decided this case. Glade Hall represented the Schneiders. This case dealt with a county recorder's duties and statutory mapping requirements. After the Schneiders filed a lawsuit against Elko County, I prevailed on a motion to dismiss. The Schneiders then appealed to the Nevada Supreme Court. This was the first case that I argued in front of the Nevada Supreme Court and my first reported case. The knowledge I learned from this case has helped me immensely in planning and zoning issues. I also learned from oral argument that what I thought were the salient points of the case didn't even merit a question from the justices.

Fourth. Jones v. Elko County (2010), Case number 52848, Nevada Supreme Court. Katie McConnell and James Copenhaver represented the Joneses. The Jones appealed the District Court's denial of their petition for a writ of mandamus to challenge a land use issue. The County Commission had reached a tie vote with one abstention. The Nevada Supreme Court held that the Appellant should have filed a petition for judicial review instead. The Order of Affirmance also provided guidance on the effect of a tie vote, accepting Elko County's position that a Planning Commission is vested with the authority to make a final decision instead of merely a recommendation. I enjoyed researching a relatively novel issue – tie votes – and arguing about procedure.

Fifth. Sanders v. State, Case number 22946. Nevada Supreme Court. Opposing counsel was Donald C. Hill. Mr. Sanders pleaded guilty after a mistrial for abuse or neglect of a child. He then directly appealed his conviction by claiming ineffective assistance of counsel. This was the very first brief I wrote, the first month I worked at the District Attorney's Office. Mr. Sanders' appeal was denied. Subsequently, I also worked on the post-conviction proceedings, getting to cross examine Mr. Sanders and the counsel whom he accused of ineffective assistance. Mr. Sanders' conviction was upheld. The case was doubly memorable for me because Mr. Sanders had been my elementary school music teacher, and had been a teacher at Elko High School when I was a student there.

21. 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.

I have not served as a mediator nor an arbitrator, but I have been through both processes as counsel for the County. I admire the style of Josesph P. McMahon, who was the mediator

between the Elko County, the Shovel Brigade, and the federal government. Mr. McMahon focused the parties on searching for common areas of interest, no matter how tiny. I admire Judge Robert McQuaid, who gets to the heart of a matter quickly. Judge David Gamble has a way of letting attorneys see beyond their entrenched positions. I have judged high school debates, both policy and value topics, for more than 20 years. I am also the mother of two children. I spend much of my personal time mediating between them.

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

I have not performed direct pro bono work on individual cases. I have spoken to community groups about child support, domestic violence, and the bad check program.

23. 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.

I am a member of the State Bar of Nevada, and the State Bar of Idaho. I am also admitted to practice in the federal district courts in Nevada and Idaho, Ninth Circuit Court of Appeals, and the United States Supreme Court. I also belong to the National District Attorneys Association. I also attend the Nevada Prosecution Advisory Council Civil Deputies Conference.

24. 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 have attached my continuing legal education credits from both Nevada and Idaho as Tab B.

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

I work for a county government which has liability coverage through the Nevada Public Agency insurance pool.

Business and Occupational Experience

26. Have you ever been engaged in any occupation, business, or profession other than judicial officer or the practice of law?

My husband and I run a commercial cattle ranch in Ruby Valley, Nevada. I assist him on the weekends.

Prior to law school and during part of one summer, I worked as a reporter. In 1986, I worked for the Elko Daily Free Press, which inspired me to apply to law school. During the fall of 1986 and through August of 1987, I worked for United Press International, first in Las Vegas, then in Carson City to cover the 1987 Nevada Legislature.

27. 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.**

28. 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:
- the nature of the business,
 - the nature of your duties,
 - the extent of your involvement in the administration or management of the business,
 - the terms of your service,
 - the percentage of your ownership.

I am co-owner of a cattle ranch with my husband. I help him as needed on weekends and holidays, primarily with the physical aspects of ranch work. I am not directly involved in the management of the business end of the ranch, as I have a full time job more than 70 miles away. My husband was raised on this ranch, and has a degree in agricultural economics. We bought the ranch almost 17 years ago. I own half of it.

Civic, Professional and Community Involvement

29. Have you ever held an elective or appointive public office in this or any other state? Have you been a candidate for such an office? If so, give details, including the offices involved, whether initially appointed or elected, and the length of service. Exclude political affiliation. **No.**
30. State significant activities in which you have taken part, giving dates and offices or leadership positions.

I have worked in every division in the District Attorney's Office. I started in the criminal division in 1992, then went to the juvenile division in 1995, then became the chief (sole) civil deputy and the child support deputy in 1997.

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

I have taught a couple of short CLE programs for the Elko County Bar Association more than five years ago.

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

I served as the secretary for the Elko Little League Board from 2006 through 2008. That was the most political organization I have ever seen, and that includes the County Commission and the Legislature. I became certified a rifle instructor for Nevada 4-H shooting sports program in the spring of this year. I also enjoy judging high school forensics tournaments when my schedule permits. My husband and I are active in the Western Ranchers Beef organization. I have helped with clerical duties and the fund raising auctions for WRB.

33. List honors, prizes, awards, or other forms of recognition. **None.**
34. Have you at anytime 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.

To my knowledge, I don't belong to any such organizations, and I am not aware that the organizations to which I do belong have any such restrictions.

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

I have not published any books, speeches, or public statements such as letters to the editor or editorials. As counsel for Elko County, I attend and offer opinions at countless public meetings. I am often quoted (sometimes incorrectly) by the local news media.

36. During the past ten years, have you been registered to vote? Have you voted in the general elections held in those years? **Yes, I am registered to vote, and do.**

37. List avocational interests and hobbies.

I enjoy reading, watching cooking shows, horseback riding, and watching my children's activities. I also participate in kettlebell fitness classes. My husband and I enjoy going to concerts in Wendover.

Conduct

38. 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.

My last speeding ticket was in 1993. I paid the ticket in Alamo Justice Court.

39. 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. **No.**

40. 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.**

41. 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.**

42. Has a lien ever been asserted against you or any property of yours that was not discharged within 30 days? If yes, explain. **No.**

43. 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.**

Other

44. 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. **No.**
45. 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 particular education, experience, personality or character traits you possess or have acquired that you feel qualify you as a good district court judge. In so doing, address both the civil (including family law matters) and criminal processes (including criminal sentencing.) **See Tab C.**
46. 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.

One of the most satisfying aspects of my job is mentoring the four interns who worked directly with me. The enthusiasm which they bring to our office is infectious and a welcome respite in a job filled with non-stop challenges. I have been so proud to watch two of them win their very first contested cases (misdemeanor and juvenile delinquency petition) while I was the supervising attorney. The interns also bring technical skills to our office. One taught me how to “text message,” one prepared a power point presentation for me, and one utilized his math skills and pre-law work experience to help the Child Support Division set up a pilot program to take debit and credit card payments. One intern became a prosecutor in our office (but has since left to become a deputy attorney general), one returned to his home state to become a public defender, one is waiting for bar results and will be going into private practice. One worked on improving his writing skills while interning for me and was accepted to his school’s law review this year. I cherish the small part I have played in each of their successes.

47. 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.

My writing sample is a six-page “Opposition to Amended Motion to Enforce Amended Order Approving Sale of Real and Persona Property” that I filed in Bankruptcy Court for the Elko County Assessor. I did not attach the exhibits to the Opposition nor certificates. I also attached the three-page “Findings of Fact and Conclusions of Law” which I prepared for Judge Zive. I did not include any of certificates on this sample as well. See Tab D.

TAB A

Kristin McQueary

From: Samuel Stephenson <samuel.stephenson@law.utah.edu>
Sent: Tuesday, September 27, 2011 3:00 PM
To: Kristin McQueary
Subject: Class of 1990 GPA Distribution
Attachments: Class of 1990 GPA Distribution.pdf

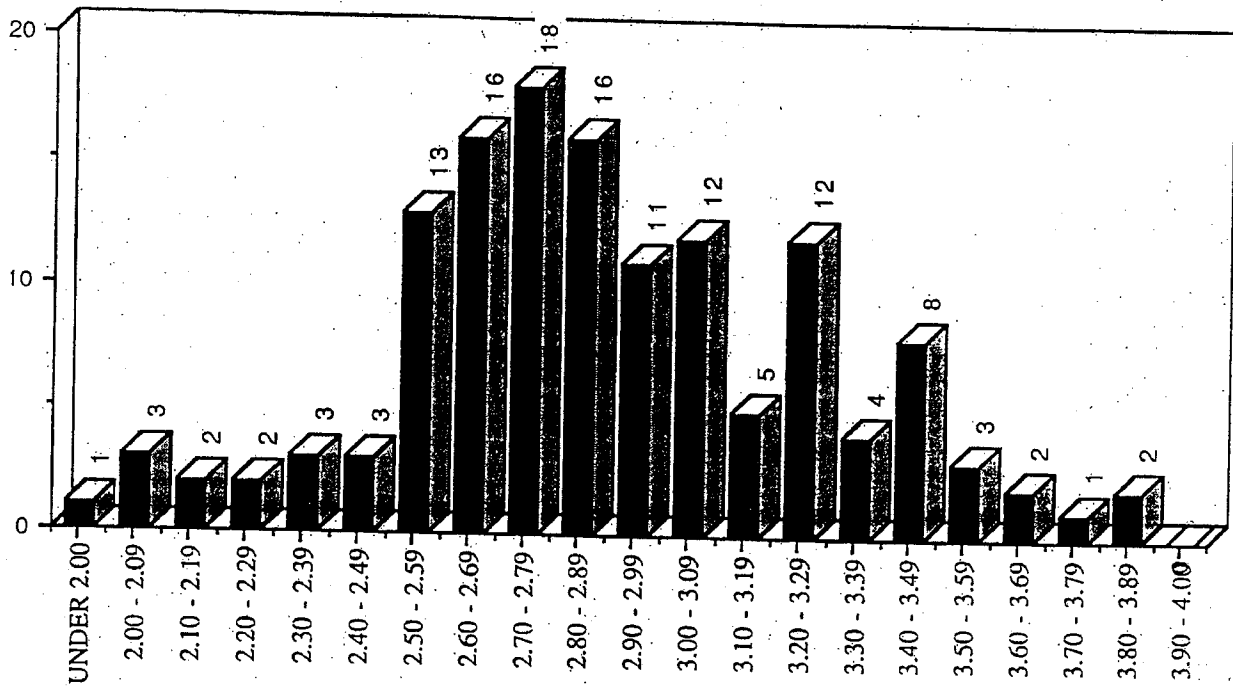
Hi Kristin,

It looks like the "class ranking" for the class of 1990 was not done individually but on a GPA distribution. I've attached the GPA distribution for the class of 1990. Your cumulative GPA was 2.64. If you need a formal letter please let me know.

Best,
Sam Stephenson
Student Services Coordinator
SJ Quinney College of Law
Email: samuel.stephenson@law.utah.edu
Phone: (801) 581 3759



Class of 1990 GPA Distribution (137 students)



Cumulative GPA through June 1990

Please note that the range of GPA distribution for most of the class is narrow. The difference between the cumulative GPA for a student at the bottom of the top third of the class (66%ile) and the cumulative GPA for a student at the top of the bottom third of the class (33%ile) is only .30 on a 4.00 scale.

TAB B

NEVADA BOARD OF CONTINUING LEGAL EDUCATION
 457 COURT STREET, 2nd FLOOR
 RENO, NEVADA 89501
 (775) 329-4443 fax- (775) 329-4291
 Email- Nevadacleboard@sbcglobal.net website- nvcleboard.org

09/26/11

TO: Kristin A. McQueary [4337]
 540 Court St., 2nd Fl.
 Elko, NV 89801

FROM: Toni Sarocka, Executive Director
 Board of Continuing Legal Education

This notice sets forth the number of credits that you have accumulated toward the requirement of SCR 210 for the 2011 compliance year.

If you have not fulfilled the requirement, the credits you must obtain are shown with a minus sign in the last line of the credit summary section. The minimum requirement of SCR 210 should be met by December 31.

COURSE ATTENDANCE/INSTRUCTION:

Sponsor	Course	Start Date	Location	Credits	
				Ethics	Total
NLS	ChildSupportBasics	03/01/11	Elko, NV	0.	0.5
NACPA	NVGovtCivilAtty	05/11/11	So. Lake Tahoe, NV	2.	10.

ETHICS - 2 Required

Credits carried forward:					3.5
Earned: Live	2.0	Alternate	0.0	Total	2.0
Excess ethics to carry forward, or deficiency					3.5

GENERAL CREDITS - 10 Required

Credits carried forward					20.0
Earned: Live	8.5	Alternate	0.0	Total	8.5
Authorship (see attached sheet)					
Total general credits:					28.5
may include excess ethics not used above					
Excess general credits to carry forward or deficiency					18.5

REMINDER

Excess ethics can be used towards any general credit deficiency.

NEVADA BOARD OF CONTINUING LEGAL EDUCATION
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 Email- Nevadacleboard@sbcglobal.net website- nvcleboard.org

09/26/11

TO: Kristin A. McQueary [4337]
 540 Court St., 2nd Fl.
 Elko, NV 89801

FROM: Toni Sarocka, Executive Director
 Board of Continuing Legal Education

This notice sets forth the number of credits that you have accumulated toward the requirement of SCR 210 for the 2010 compliance year.

If you have not fulfilled the requirement, the credits you must obtain are shown with a minus sign in the last line of the credit summary section. The minimum requirement of SCR 210 should be met by December 31.

COURSE ATTENDANCE/INSTRUCTION:

Sponsor	Course	Start Date	Location	Credits	
				Ethics	Total
Franklin Coun	OperationStreetSma	11/05/10	Elko, NV	0.	6.
NDA	ExecutiveProgram	12/04/10	San Francisco, CA	1.5	20.5

ETHICS - 2 Required

Credits carried forward:		4.0
Earned: Live	1.5	Alternate 0.0
		Total 1.5
Excess ethics to carry forward, or deficiency		3.5

GENERAL CREDITS - 10 Required

Credits carried forward		15.0
Earned: Live	25.0	Alternate 0.0
		Total 25.0
Authorship (see attached sheet)		
Total general credits:		40.0
may include excess ethics not used above		
Excess general credits to carry forward or deficiency		20.0

REMINDER

Excess ethics can be used towards any general credit deficiency.

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 Email- Nevadacleboard@sbcglobal.net website- nvcleboard.org

09/26/11

TO: Kristin A. McQueary [4337]
 540 Court St., 2nd Fl.
 Elko, NV 89801

FROM: Toni Sarocka, Executive Director
 Board of Continuing Legal Education

This notice sets forth the number of credits that you have accumulated toward the requirement of SCR 210 for the 2009 compliance year.

If you have not fulfilled the requirement, the credits you must obtain are shown with a minus sign in the last line of the credit summary section. The minimum requirement of SCR 210 should be met by December 31.

COURSE ATTENDANCE/INSTRUCTION:

Sponsor	Course	Start Date	Location	Credits	
				Ethics	Total
RockhurstColl	FMLA Compliance	01/09/09	Reno, NV	0.	6.
StewartTitle	ShortSales Foreclo	04/07/09	Elko, NV	0.	0.5
NACPA	GovtCivilAttysConf	05/13/09	Lake Tahoe, NV	2.	10.
SBN	AttyAttendCrtbyVid	01/01/09	alt format,	1.	1.
Elko CoBar	09LegislationCivil	11/03/09	Las Vegas, NV	0.	0.5

ETHICS - 2 Required			
Credits carried forward:			
Earned: Live	2.0	Alternate	1.0
			Total
Excess ethics to carry forward, or deficiency			4.0

GENERAL CREDITS - 10 Required			
Credits carried forward			
Earned: Live	15.0	Alternate	0.0
			Total
Authorship (see attached sheet)			
Total general credits:			31.0
may include excess ethics not used above			
Excess general credits to carry forward or deficiency			15.0

REMINDER

Excess ethics can be used towards any general credit deficiency.

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 Email- Nevadacleboard@sbcglobal.net website- nvcleboard.org

09/26/11

TO: Kristin A. McQueary [4337]
 540 Court St., 2nd Fl.
 Elko, NV 89801

FROM: Toni Sarocka, Executive Director
 Board of Continuing Legal Education

This notice sets forth the number of credits that you have accumulated toward the requirement of SCR 210 for the 2008 compliance year.

If you have not fulfilled the requirement, the credits you must obtain are shown with a minus sign in the last line of the credit summary section. The minimum requirement of SCR 210 should be met by December 31.

COURSE ATTENDANCE/INSTRUCTION:

Sponsor	Course	Start Date	Location	Credits	
				Ethics	Total
NPAIP	LitigationStrategy	02/22/08	Carson City, NV	1.	7.5
NACPA	GovtCivilAttyConf	05/07/08	So. Lake Tahoe, NV	2.	10.
WICSEC	25thAnnualTraining	09/07/08	San Antonio, TX	1.	5.5

ETHICS - 2 Required

Credits carried forward:		4.0
Earned: Live	4.0	Alternate 0.0
Total		4.0
Excess ethics to carry forward, or deficiency		4.0

GENERAL CREDITS - 10 Required

Credits carried forward		15.0
Earned: Live	19.0	Alternate 0.0
Total		19.0
Authorship (see attached sheet)		
Total general credits:		36.0
may include excess ethics not used above		
Excess general credits to carry forward or deficiency		15.0

REMINDER

Excess ethics can be used towards any general credit deficiency.

NEVADA BOARD OF CONTINUING LEGAL EDUCATION
 457 COURT STREET, 2nd FLOOR
 RENO, NEVADA 89501
 (775) 329-4443 fax- (775) 329-4291
 Email- Nevadacleboard@sbcglobal.net website- nvcleboard.org

09/26/11

TO: Kristin A. McQueary [4337]
 540 Court St., 2nd Fl.
 Elko, NV 89801

FROM: Toni Sarocka, Executive Director
 Board of Continuing Legal Education

This notice sets forth the number of credits that you have accumulated toward the requirement of SCR 210 for the 2007 compliance year.

If you have not fulfilled the requirement, the credits you must obtain are shown with a minus sign in the last line of the credit summary section. The minimum requirement of SCR 210 should be met by December 31.

COURSE ATTENDANCE/INSTRUCTION:

Sponsor	Course	Start Date	Location	Credits	
				Ethics	Total
LES	PublicContract	02/07/07	Reno, NV	0.	6.
SBN	LiveEthicsCLE	05/11/07	Elko, NV	3.	3.
SBN	LawyerAdvertisSimp	01/01/07	alt format,	1.	1.
NV Child Supp	AnnualTraining	09/25/07	Las Vegas, NV	0.	9.
SBN	ArtNegotiation	11/16/07	Reno, NV	0.5	6.

ETHICS - 2 Required

Credits carried forward:	2.0
Earned: Live 3.5 Alternate 1.0 Total	4.5
Excess ethics to carry forward, or deficiency	4.0

GENERAL CREDITS - 10 Required

Credits carried forward	5.0
Earned: Live 20.5 Alternate 0.0 Total	20.5
Authorship (see attached sheet)	
Total general credits:	26.0
may include excess ethics not used above	
Excess general credits to carry forward or deficiency	15.0

REMINDER

Excess ethics can be used towards any general credit deficiency.

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09/26/11

TO: Kristin A. McQueary [4337]
 540 Court St., 2nd Fl.
 Elko, NV 89801

FROM: Toni Sarocka, Executive Director
 Board of Continuing Legal Education

This notice sets forth the number of credits that you have accumulated toward the requirement of SCR 210 for the 2006 compliance year.

If you have not fulfilled the requirement, the credits you must obtain are shown with a minus sign in the last line of the credit summary section. The minimum requirement of SCR 210 for 2006 should be met by December 31, 2006.

COURSE ATTENDANCE/INSTRUCTION:

Sponsor	Course	Start Date	Location	Credits	
				Ethics	Total
ETHICS - 2 Required					
Credits carried forward:					4.0
Earned: Live		0.0	Alternate	0.0	Total
					0.0
Excess ethics to carry forward, or deficiency					2.0
GENERAL CREDITS - 10 Required					
Credits carried forward					15.0
Earned: Live		0.0	Alternate	0.0	Total
					0.0
Authorship (see attached sheet)					0.0
Total general credits:					15.0
may include excess ethics not used above					
Excess general credits to carry forward or deficiency					5.0

REMINDER

Excess ethics can be used towards any general credit deficiency.

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 Email- Nevadacleboard@sbcglobal.net website- nvcleboard.org

09/26/11

TO: Kristin A. McQueary [4337]
 540 Court St., 2nd Fl.
 Elko, NV 89801

FROM: Toni Sarocka, Executive Director
 Board of Continuing Legal Education

This notice sets forth the number of credits that you have accumulated toward the requirement of SCR 210 for the 2005 compliance year.

If you have not fulfilled the requirement, the credits you must obtain are shown with a minus sign in the last line of the credit summary section. The minimum requirement of SCR 210 should be met by December 31.

COURSE ATTENDANCE/INSTRUCTION:

Sponsor	Course	Start Date	Location	Credits	
				Ethics	Total
NPAIP	LitigationStrategy	03/11/05	Carson City, NV	1.	6.
SBN	NVRulesCivilProcUp	06/03/05	Ely, NV	1.	4.
SBN	CivilGovtAttyConf	05/04/05	Mesquite, NV	2.	9.

ETHICS - 2 Required					
Credits carried forward:				2.0	
Earned: Live	4.0	Alternate	0.0	Total	4.0
Excess ethics to carry forward, or deficiency				4.0	

GENERAL CREDITS - 10 Required					
Credits carried forward				15.0	
Earned: Live	15.0	Alternate	0.0	Total	15.0
Authorship (see attached sheet)					
Total general credits:				30.0	
may include excess ethics not used above					
Excess general credits to carry forward or deficiency				15.0	

REMINDER

Excess ethics can be used towards any general credit deficiency.

MCLE Attendance Records Search

Enter ISB Membership Number

If you do not know your ISB Membership Number, you can contact the [MCLE Department](#) at (208) 334-4500 or check the [Attorney Roster Search](#).

Submit Query

Idaho State Bar Mandatory Continuing Legal Education (MCLE) Attendance Records (as of 9/19/11)

Kristin Alyce McQueary ISB Membership Number: 4338 MCLE Reporting Period: 8/21/09 - 12/31/12							
Course Number	Date(s)	Location	Course Title	Sponsor Name	*Total Credits (see below)	**Ethics (see below)	***Self Study (see below)
06-2192	9/8/09 - 10/2/09	Online	ILF Online: Identity Theft: Protecting Your Clients, Protecting Yourself	Idaho Law Foundation	3.25	0	3.25
07-0302	9/8/09 - 9/18/09	Online	ILF Online: Using Paralegals to Enhance Productivity and Profit	Idaho Law Foundation	3	0.5	3
07-2321	9/8/09 - 9/22/09	Online	ILF Online: Litigation - Emerging Topics	Idaho Law Foundation	5.75	2	5.75
10-3886	11/5/10	Elko, NV	Operation: Street Smart Adult Drug Education	Franklin County Sheriff's Office	7	0	
11-0180	12/4/10 - 12/8/10	San Francisco, CA	The Executive Program	National District Attorneys Association	17	0	

[Search Idaho MCLE Approved Courses](#) - 2007 to present.

The courses listed above are for the attorney's current MCLE reporting period. Please contact the [MCLE Department](#) for information on attendance records for previous reporting periods. All courses listed have been approved for Idaho MCLE credit.

The information listed above is based on attendance records received from the course sponsors and is provided on an informational basis only. All attorneys are responsible for maintaining their own MCLE attendance records. This information should not be considered as proof of attendance.

Some courses may not be listed because we do not have the necessary attendance verification. If you know a course has been approved for Idaho MCLE credit, but does it not appear on your list, [click here for more information about how to properly verify attendance](#) and have your name added to the Idaho State Bar MCLE attendance records.

If the course you attended has not been approved for Idaho MCLE credit, [click here for more information on applying for accreditation](#).

[MCLE Attendance Records Information and Assistance](#).

*All active and house counsel members of the Idaho State Bar are required to obtain 30 credits of Idaho approved MCLE (of which at least 2 credits must be ethics/professional responsibility). Attorneys who are certified as a specialist must obtain 30 Idaho approved MCLE credits in their specialty area during each reporting period.

** (No number in the ethics box indicates that total number of credits the individual attorney received for the course is different than the total credits possible. While the Idaho State Bar can track individual attendance credits, we cannot also track individual ethics credits. The attorney should keep track of the ethics hours attended and insert this number on the MCLE certificate of compliance at the end of his/her reporting period.)

*** (No more than 15 credits of self-study may be used during a reporting period.)

P.O. Box 895 Boise Idaho 83701 ph:(208) 334-4500 fax:(208) 334-4515

[Idaho State Bar](#) | [Idaho Law Foundation](#) | [Idaho.gov](#) | [Site Map](#) | [Contact Us](#)

TAB C

45. 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 particular education, experience, personality or character traits you possess or have acquired that you feel qualify you as a good district court judge. In so doing, address both the civil (including family law matters) and criminal processes (including criminal sentencing.)

My education and experience differentiate me from my peers for the position of District Court Judge.

I earned a Bachelor of Arts degree in journalism from the University of Nevada, Reno in 1986. My first job after college, I worked as a reporter for the Elko Daily Free Press. I covered the police and court beats. I then took a job at United Press International, covering the 1987 Nevada Legislature. Working for UPI taught me to gather information quickly, but as thoroughly as possible, and to complete my work on tight deadlines. Reporting taught me not to be afraid to call and ask people for information. I learned that most people want to share what they know and are flattered to be asked for correct information. I also learned that “correct information” depends upon one’s perspective. I use those skills every day.

I covered the Senate Finance Committee and learned the fundamentals of governmental budgeting. That foundation has helped me understand financial issues affecting the County, and how those financial issues affect legal issues. I will apply that knowledge in budgeting for the Court.

My experience as a reporter greatly influenced my decision to become a lawyer. I covered the police beat, the courts, and the Legislature. I saw laws being enforced, interpreted, and made (it’s true about the sausage analogy). Law school was a natural extension of my experience as a reporter.

I attended the University of Utah College of Law in Salt Lake City, graduating in 1990. After law school I clerked for Judge David Gamble in Minden for 19 months. I learned how a District Court works from the inside out. I learned to write proposed

orders in a logical fashion. I learned to state issues clearly. I learned about the importance of jury instructions. I learned to make coffee. Most valuably, I learned what the attorneys tell a court is usually only the starting point in resolving legal issues.

I left my clerkship with Judge Gamble to come home to Elko in 1992 and work as a prosecutor at the Elko County District Attorney's Office. I am the only attorney to work in every division in this office – criminal, juvenile, child support and civil.

I became the civil deputy 14 years ago, and it is the most interesting job in Elko County. I have learned a little bit about everything. This week, I attended drug court, discussed a sewer engineering contract, started preparation on two employee misconduct files, wrote a memo on a bid protest, attended a training sponsored by the Division of Child and Family Services, and responded to questions from the Planning Coordinator and the one of the Planning Commissioners. I answered questions on five different child support cases. I am completing some deeds on easements being given to the County. Next week, I will attend a County Commission meeting and will probably field at least one question about the Open Meeting Law. In the past year, I worked to create an ordinance on non-commercial wind turbines. The project took nine months and innumerable public meetings.

In 19 years at the District Attorney's Office, I have learned that everything in the judicial system is connected. I have often said that it is the repeat customers that keep us in business. I see members of the same family receiving child support services, being prosecuted for criminal and juvenile violations, abusing substances, and getting divorces. Those families in legal turmoil are also more likely to abuse or neglect their children. I do believe that the Family Court and the Drug Court help people.

I started my career at the District Attorney's Office as a criminal prosecutor. I think it is important that people be held accountable for their actions. However, as I have matured and gained life experiences, I do see more shades of gray in people's

motives. I believe this greater maturity would allow me to temper justice for society with compassion and dignity for the offender.

My experience as a civil attorney has shown me that civil issues can be time consuming, expensive and extremely intricate. I know it is important to keep cases moving through the system toward closure for the litigants.

Working in each division of the District Attorney's Office has given me great knowledge about the District Court and Dept. 2. For example, the Court and the County have a payroll and benefit processing agreement for court employees. I go to drug court, child support, juvenile hearings, and civil hearings in Dept. 2.

The Court does not work alone. Besides staff, the Judge also needs the Court Clerk, County Administration, and all practicing attorneys to make the system work as smoothly as possible. I believe that it is important to work professionally with all.

My personality is fairly direct. However, I have learned to slow down and research issues and not jump to conclusions. In dealing with elected officials, that has been particularly important. I have learned to tell people "no." and I have learned to tell people what the basis of my decisions are. I can communicate effectively with litigants.

My education and experience as a reporter, criminal and juvenile prosecutor, and civil attorney have given me the skills, maturity, and judgment necessary to be a fair and effective judge in the Fourth Judicial District Court, Dept. 2.

TAB D

1 Kristin A. McQueary (Bar No. 4337)
2 1515 7th Street
3 Elko, Nevada 89801
4 Telephone: (775) 738-3101
5 Facsimile: (775) 738-0160
6 Email: kmcqueary@elkocountynv.net

7 Counsel for Elko County

8 IN THE UNITED STATES BANKRUPTCY COURT
9 IN AND FOR THE COUNTY OF ELKO, STATE OF NEVADA

10
11 IN RE:

12 INDEPENDENCE VALLEY RANCH, L.L.C.,

13 Debtor.

CASE NO. BK-N-07-51215-GWZ

14 CHAPTER 11

Hearing date: January 29, 2010

15 Hearing time: 2:00 p.m.

16 **OPPOSITION TO AMENDED MOTION TO ENFORCE AMENDED ORDER APPROVING**
17 **SALE OF REAL AND PERSONAL PROPERTY**

18 COMES NOW, the Elko County Assessor Office, by and through its attorneys, GARY D.
19 WOODBURY, District Attorney for the County of Elko, and KRISTIN A. MCQUEARY, Deputy District
20 Attorney, and submits the following Points and Authorities in support of this Opposition together with all
21 pleadings and papers on file herein.

22 Dated this 25th day of November, 2009.

23 GARY D. WOODBURY
24 Elko County District Attorney

25
26 By: /s/ Kristin McQueary
27 KRISTIN A. MCQUEARY
28 Deputy District Attorney
State Bar Number: 4337

POINTS AND AUTHORITIES

Background

Nevada Revised Statute 361A.110 requires that to qualify for ag-deferred taxes, an application “must” be filed on or before June 1, and an application must be made on forms from the government.

The predecessor in interest, Independence Valley Ranch, LLC, did not file the appropriate forms by June 1, 2008, for the 2008-2009 tax year. See Exhibit A, affidavit of Elko County Assessor Katrinka S. Russell.

The property was sold to Pequop Conservancy, LLC, on June 30, 2008. The Pequop Conservancy was billed for deferred taxes, pursuant to NRS 316A. Pequop requested relief from this Court. The issue came before this Court on August 15, 2008. The Court filed an order in line with NRS 361A. See Exhibit B, Order filed June 27, 2008. The new property owner, Pequop Conservancy, LLC, was informed about how to appeal the tax bill before the Elko County Board of Equalization. See Exhibits C, D & E, letters from Elko County District Attorney’s Office. The new owner did not do so. See Exhibit A.

The new owner did apply, and qualify, for ag deferred taxes for the 2009-2010 tax year. See Exhibit A.

The new property owner filed the instant motion. The Court requested additional briefing and set a hearing for January 29, 2010.

A brief overview of Nevada’s ad valorem tax system, including agricultural deferred taxes, may be helpful.

All property subject to taxation in Nevada must be assessed at 35 percent of its taxable value. NRS 361.225.

Nevada Revised Statutes 361A.100 allows property owners to apply for agricultural use assessment and thus, lower tax payments. The application process is discretionary with the property owner. The county assessor is obliged by law to follow certain procedural steps.

NRS 361A.110(1) requires that the application “**must**” be filed on or before June 1st of any year.

Subsection 5 states:

The county assessor **shall not** approve an application unless the application is

1 signed by each owner of record or his representative as specified in subsection
2 4. Additional information may be required of the application if necessary to
evaluate his application. (Emphasis added).

3 NRS 361A.150 states:

4 1. The county assessor shall enter on the assessment roll the valuation based on
5 agricultural use until the property becomes disqualified by agricultural use
assessment by:

6 (d) Failure to file an application as provided in NRS 361A.110. (Emphasis
7 Added).

8 The previous owner failed to file an application. By law, the Assessor could not enter the property on
9 the ag deferred taxes because it was disqualified. The term "shall" in Nevada statutory construction is
10 mandatory. Washoe Medical Center v. Second Judicial District Court, 122 Nev. 1298, 1303 (2006).

11 NRS 361A.160 states in its entirety:

12 The determination of use and agricultural use assessment in each year are final
13 unless appealed in the manner provided in chapter 361 of NRS for complaints
of overvaluation, excessive valuation or undervaluation.

14 The process in Chapter 361 is to appeal to the County Board of Equalization. See NRS 361.345.

15 The new property owner, Pequop Conservancy, LLC, was informed about this process and notified of the filing
16 deadline, which is January 15. See Exhibits C, D, and E. See NRS 361.355(2). There is, of course, a statutory
17 form for board of equalization appeals. See NRS 361.356(2) and NRS 361.357(2).

18 NRS 361A.290(2) states: "The owner of the property as of the date on which the deferred taxes become
19 due pursuant to this chapter is liable for the deferred taxes."

20 NRS 361A.286 explains that there is a 7-year rolling perpetual lien for the deferred tax and penalty. In
21 other words, if the property no longer qualifies for ag deferred taxes, the government is entitled to collect the
22 difference between the ag-deferred taxes collected for the current tax year and six previous years.
23

24 Basically, the property is assessed and valued at its 35 percent. To get a reduced tax payment for
25 agricultural assessed property, the property owner must take affirmative steps by certain deadlines. Otherwise
26 the property reverts back by operation of law to the regular assessed value. The Assessor does not have the
27 discretion to allow the agriculturally deferred tax rate for parcels that don't meet the statutory prerequisites.
28

1 The overview of the agricultural use and assessment system is to show the Assessor was not in violation
2 of the automatic stay by virtue of two provisions of 11 USCS 362(b).

3 11 USCS 362(b) states in pertinent parts:

4 The filing of a petition under section 301, 302, or 303 of this title ... does not
5 operate as a stay...
6 (9) under subsection (a), of
7 (A) an audit by a government unit to determine tax liability;
8 (B) the issuance to the debtor by a governmental unit of a notice of tax
9 deficiency;
10 (C) a demand for tax returns; or
11 (D) the making of an assessment of any tax and issuance of a notice and
demand for payment of such an assessment (but any tax lien that would
otherwise attach to the property of the estate by reason of such an assessment
shall not take effect unless such tax is a debt of the debtor that will not be
discharged in the case and such property or its proceeds are transferred out of the
estate to, or otherwise reverted in the debtor).

12 Subsection 18 of 11 USC 362(b) is also relevant. It states:

13 Under subsection (a) of the creation or perfection of a statutory lien for an ad
14 valorem property tax, or a special tax or special assessment on real property
15 whether or not ad valorem, imposed by a government unit, if such tax or
assessment comes due after the date of the filing of the petition.

16 The new property owner cites In re Parr Meadows Racing Ass'n., Inc., 880 F.2d 1540 (2nd Cir. 1989)
17 for the proposition that the Elko County Assessor is in violation because it created a post petition tax lien. Parr
18 Meadows was decided prior to the 1994 changes to the bankruptcy code.

19 In a case with somewhat similar facts to the instant case, In re: James M. Fischer, 184 B.R. 41 (1995),
20 the bankruptcy court ruled against the holder of deeds of trust who asked for payment of post-petition property
21 taxes. The major issue in the case was subrogation. However the bankruptcy court noted, "Obviously a
22 mortgagee would be inclined to pay delinquent property taxes to protect its own security interest." Id. at 43.
23

24 The bankruptcy court in footnote 4 stated:

25 In the 1994 Amendments, the United States Congress amended section 362(b)
26 to include a subsection (18) which allows for the creation or perfection of a
27 statutory lien for ad valorem taxes which come due after the filing of a
28 petition. See 11 USC section 362(b)(18) (1995). This amendment **overruled**
the Second Circuit decision In re Parr Meadows, 880F.2d 1540, cert. denied,
110 S.Ct. 869 (1990) and its progeny that created a windfall to secured

1 creditors who would otherwise be subordinated to these priming liens. (cites
2 omitted, emphasis added).

3 Allowance of the perfection of the tax lien for post-petition ad valorem taxes
4 is further evidence that Congress intended the law to allow that the creation or
5 perfection of a taxing authority's lien was to continue as if no bankruptcy
6 filing had ever occurred. Post-petition creation or perfection of a taxing
7 authority's lien does not alter the fact that a mortgagee who bids a foreclosure
8 must consider any delinquent taxes, and weigh that factor in determining its
9 bid price at foreclosure. In fact, a bidder in a foreclosure sale during the
10 pendency of a bankruptcy proceeding, or at any time, proceeds at their peril, if
11 they do not consider the now-primed liens of a taxing authority in calculating
12 a foreclosure bid.

13 The property was out of the bankruptcy estate on June 27, 2008, by virtue of this Court's Order (Exhibit
14 B), which was before the taxes were due.

15 The new property owner argues that Elko County altered the tax status of the property. Elko County
16 did nothing of the sort. The baseline of ad valorem taxes in Nevada is 35%. An agricultural deferral means a
17 taxpayer pays at a lower rate, but the lien for the full amount is perpetually on the property, for seven tax years.
18 If according to statutorily specified reasons, the property is no longer qualified, then the tax authority is
19 supposed to recover the difference between the full amount and the deferred amount.

20 The statutes don't allow the Assessor to process an agricultural use deferral without an application
21 submitted by the deadline with supporting income information. The old property owner did not submit the
22 statutorily required paperwork in a timely fashion.

23 This Court has already granted one of two courses of action available to the new property owner, by
24 ordering that the new property owner only pay regular taxes for the one year that the property did not qualify for
25 the deferred rate. See NRS 361A.282(12).

26 The new property owner did not avail itself of the statutory method of appeal and now is asking this
27 Court for relief from its own lack of action.

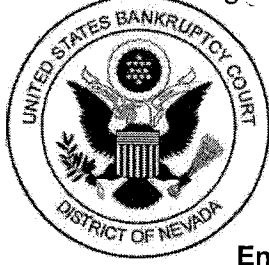
28 **Conclusion:**

This Court should deny the new property owner's motion as there was no violation of the automatic
stay by the Elko County Assessor.

1 Dated this 25th day of November, 2009.

2 GARY D. WOODBURY
3 Elko County District Attorney

4 By: /s/Kristin A. McQueary
5 KRISTIN A. MCQUEARY
6 Deputy District Attorney
7 State Bar Number: 4337
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Entered on Docket
April 01, 2010

Hon. Gregg W. Zive
United States Bankruptcy Judge

Kristin A. McQueary (Bar No. 4337)
540 Court Street, 2nd floor
Elko, Nevada 89801
Telephone: (775) 738-3101
Facsimile: (775) 738-0160
Email: kmcqueary@elkocountynv.net

Counsel for Elko County

IN THE UNITED STATES BANKRUPTCY COURT
IN AND FOR THE COUNTY OF ELKO, STATE OF NEVADA

IN RE:

CASE NO. BK-N-07-51215-GWZ

INDEPENDENCE VALLEY RANCH,
LLC,

Chapter 11

Hearing Date: January 29, 2010

Hearing Time: 2:00 p.m.

Debtor,

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Pequop Conservancy, LLC, a Nevada limited liability company, successor in interest to the property purchaser Airpeak, LLC ("Pequop"), filed an Amended Motion to Enforce Amended Order Approving Sale of Real and Personal Property October 23, 2009. The Elko County Assessor filed an Opposition on November 25, 2009. Pequop filed a Reply to

1 Opposition on December 15, 2009.

2 The Court requested that counsel appear in person on January 29, 2010 for a hearing on
3 the pending motion. At the hearing, Robert W. DeLong, Esq., appeared for Pequop
4 Conservancy, LLC, along with owner James Boyer. Elko County Deputy District Attorney
5 Kristin A. McQueary appeared for the Elko County Assessor, along with Elko County Assessor
6 Katrinka Russell.

7 The Court reviewed the procedural history of the order approving sale and informed the
8 parties of its understanding of the issue. The pending issue is whether the Elko County Assessor
9 violated the automatic stay by not allowing the property to retain its ag-deferred tax status after
10 the previous property owner, the Debtor, failed to file a timely application for ag-deferred taxes
11 for the 2008-2009 tax year.

12 The Court heard arguments from Mr. DeLong and Mrs. McQueary.

13 The Court makes the following Findings of Fact:

- 14 1. The Debtor failed to file an application for agricultural deferment for the 2008-
15 2009 tax years with the Elko County Assessor by June 1, 2008.
- 16 2. This Court entered an Order for the Sale of the Property on June 24, 2008.
- 17 3. Pequop Conservancy, LLC, or its predecessor in interest, Airpeak, LLC, was
18 the record owner of the properties on July 1, 2008.
- 19 4. In re: Parr Meadows Racing Ass'n, Inc., 880 F. 2d. 1540 (2nd Cir. 1989), has
20 been overturned by both the 1994 amendments to the Bankruptcy Code and In
21 re: James M. Fischer, 184 B.R. 41 (1995), footnote 4. See USBC recorded
22 transcript from hearing on January 29, 2010 at 2:37:35.
- 23 5. The Court's Amended Order of Sale in June 2008 lacked clarity on assessment
24 of ag-deferred taxes for the 2008-2009 tax years.

25 The Court makes the following Conclusions of Law:

- 26 1. The filing of a timely application for agricultural deferment is a condition
27 precedent for the qualification and assessment of agricultural deferment,
28 pursuant to Nevada Revised Statutes 361A.110(1).

- 1 2. It is at the discretion of a property owner to apply for an agricultural use
2 assessment, pursuant NRS 361A.100.
- 3 3. Pursuant to 361A.150(d) the assessor could not enter the assessment for the
4 property as agricultural because it was disqualified by the debtor's failure to
5 file an application. Consequently, the property was properly assessed at 35 %
6 of its taxable value.
- 7 4. Pursuant to NRS 361A.290(2), Airpeak, now Pequop Convservancy, was
8 responsible for the taxes as of July 1, 2008, by virtue of its ownership of the
9 property at the 35% of taxable value.
- 10 5. The bankruptcy stay only applies to the debtor and the property while the
11 property is in bankruptcy. See USBC recorded transcript from hearing on
12 January 29 2010 at 3:41.

13
14 Dated this 19th day of March, 2010.

15 GARY D. WOODBURY
16 Elko County District Attorney

17
18 By: /s/ Kristin A McQueary
19 KRISTIN A. MCQUEARY
20 Deputy District Attorney
21 State Bar Number: 4337
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