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NEVADA BOARD OF PAROLE COMMISSIONERS

To: Board of Parole Commissioners
Subject: Designation of Settlement Authority
From: David M. Smith, Hearings Examiner II ^{DMS}
RE: **Agenda Item IX Delegation of Settlement Authority
January 9, 2019 meeting of the Board**

At a public meeting held on November 28, 2016, the Board approved the designation of the Chair and/or the Hearings Examiner II to represent the Board at judicial mediation or settlement conferences, and granted them preliminary settlement authority. At the same meeting, the Board also established parameters pertaining to preliminary settlement authority.

Agenda Item IX considers modifying the current practice and requests that the Board authorize the Chair of the Parole Board to designate any member of the Parole Board (to include the Chair) and/or the Parole Hearings Examiner II to represent the Board at judicial mediation or settlement conferences. This agenda item also requests the Board reaffirm the parameters regarding preliminary settlement authority that was approved by the Board on November 28, 2016.

When named as a party to a lawsuit and in certain circumstances, the Parole Board may be required to participate in mediation or settlement conferences. The goal of a settlement conference is to facilitate the parties' efforts to negotiate a settlement of all or part of the dispute. A person who attends a settlement conference is required to be thoroughly familiar with the case and is generally required to have authority to negotiate a settlement.

When a public body like the Parole Board is required to participate in a settlement conference, it is impractical for a quorum of the Board to attend to approve a negotiated settlement. In instances like this, a designee may attend and preliminarily reach a negotiated settlement, subject to the final approval of a majority of the members of the Board performed in accordance with Nevada's Open Meeting Law.

The settlement parameter currently in place allows a designee to preliminarily agree to any settlement. However, if the settlement would result only in a new parole hearing without any expectation of the outcome of that new parole hearing, and without any admission of wrongdoing or monetary settlement, the designee may indicate that the Board will usually ratify such a settlement. Moreover, the designee may indicate that any other negotiated agreement made by the designee would be considered by the Board, but that any other agreement is less likely to be approved by the Board.

If the Board concurs with these recommendations, the motion may be worded as:

I move that the Board authorize the Chairman of the Board to designate any member of the Board (including the Chair) and/or the Parole Hearings Examiner II, to attend and negotiate judicial settlements on behalf of the Board. Furthermore, the Board authorizes the designee to indicate during settlement negotiations that, generally, the position of the Board is to ratify a settlement that would result only in a new parole hearing without any expectation of the outcome of that new parole hearing, and without any admission of wrongdoing or a monetary settlement. Any other negotiated agreement made by the designee would be considered by the Board, but the designee should advise the mediator that any other agreement it is less likely to be approved, but not necessarily rejected. Lastly, any negotiated settlement is subject to the final approval of a majority of the Members of the Board at a public meeting.