

**OFFICIAL MEETING MINUTES
OF THE
PALM BEACH COUNTY COMMISSION ON ETHICS
STATUS CHECK
PALM BEACH COUNTY, FLORIDA**

OCTOBER 18, 2021

**WEDNESDAY
3:00 P.M.**

**WEBEX TELECONFERENCE
WEISMAN GOVERNMENTAL CENTER**

I. CALL TO ORDER

STAFF:

Mark E. Bannon, Commission on Ethics (COE) Executive Director
Christie E. Kelley, Esq., COE General Counsel
Gina A. Levesque, COE Intake and Compliance Manager

ADMINISTRATIVE STAFF:

Danielle Freeman, Deputy Clerk, Clerk of the Circuit Court & Comptroller's Office (Recording).

II. C18-008 – STATUS CHECK

Earl Mallory, Hearing Officer, asked for introductions of everyone present.

Mr. Mallory recently denied a motion to dismiss and inquired as to why there had been delays in the case.

Gwendolyn Tuggle, Respondent's attorney, stated that there were several reasons for the delays, which included the recusal of the previous hearing officer as well as a pending motion in limine with a previous date in place that still needed to be heard.

Both parties stated there were no additional motions pending.

Mr. Mallory asked for the status of discovery.

Ms. Tuggle stated that discovery had been concluded however, there were some issues that needed to be resolved, which included:

- The process for how the witness testimonies would be conducted and heard.
- Due to the disqualification of the previous hearing officer, concerns arose regarding the reissuing of subpoenas that were previously sent out to witnesses.

- In addition, she said the previous hearing officer stated that the subpoenas would be honored to prevent Ms. Hubbard from paying to have the witnesses subpoenaed again.

Mr. Mallory stated that there was no objection to honoring the previously issued subpoenas however, without reserving them how would their attendance be compelled.

Ms. Tuggle stated that all witnesses had been notified that the subpoenas were still active, and that any status updates regarding the case would be communicated. Additionally, she said any witnesses that could not be confirmed would be subpoenaed again.

Flynn Bertisch, COE's advocate, stated that Anthony Bennett, the investigator lived in Georgia and they were not certain if he would be flown in for testimony or be allowed to testify virtually via Zoom or Webex.

Ms. Tuggle inquired whether the previous order regarding witnesses testifying remotely being able to view the case documents live during the trial was still in effect.

Mr. Mallory stated that he was unaware of any previous orders by the previous hearing officer.

Due to adhering to COVID-19 safety precautions a remote testimony option was offered, and the commission had no objection. In addition, he added that one witness had health concerns and was unable to testify in person.

Mr. Mallory asked that all exhibit lists be resubmitted to him for review prior to the hearing. In addition, he added that there would be no surprise experts after Ms. Tuggle has consulted with her client.

The estimated time for the hearing would be at minimum 2 days and both parties agreed to the month of December for the hearing.

Ms. Tuggle requested that their motion in limine be heard and it would take an approximately.

Mr. Mallory asked for clarification of the motion in limine.

Ms. Tuggle stated that the Motion in Limine was regarding a domestic violence charge for one of the witnesses and the mentioning of a check disclosed by Mr. Bennet that had never been entered into discovery, which was now closed.

Mr. Bertisch stated it was ok to proceed with the Motion in Limine for the domestic violence arrest and the check could be left out since it presented no issue.

Mr. Mallory said that he would grant a motion for the domestic violence arrest to not be mentioned at the trial.

Mr. Bertisch asked what would not be heard the facts of the arrest of the fact that there was an arrest on her record which was part of their case.

Mr. Mallory asked what date would be good for the motion in limine hearing.

Both parties stated that they could schedule a date in November.

Mr. Mallory stated that his assistant would provide them with some dates and both parties agreed that the hearing could be held online.

Mr. Mallory asked would either side like to prepare written statements for the motion in limine.

Both parties said they were ready for closing arguments.

Mr. Mallory stated that he would also have his office contact everyone with dates for the final hearing, which would be held in person.

Ms. Tuggle stated that she would not be in town for some dates in November and December and if possible, provide time certain dates for the beginning of the year.

All parties agreed.

III. COMMISSIONER COMMENTS- None

IV. ADJOURNMENT

At 3:22 p.m., Mr. Mallory declared the meeting adjourned.