

S. Ott
(via email)

1 LOUISVILLE METRO COUNCIL

COMMONWEALTH OF KENTUCKY
LOUISVILLE METRO GOVERNMENT
JEFFERSON COUNTY

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4 **IN THE MATTER OF REMOVAL PROCEEDINGS AGAINST**
5 **DISTRICT 21 COUNCILMAN DAN JOHNSON**

6 **RESPONDENT'S MOTION TO LIMIT**

7 **INCOMPETENT AND IMMATERIAL TESTIMONY AND EXHIBITS**

8 **(RESPONDENT'S MOTION NO. 6)**

9
10 Comes now the Respondent herein, Hon. Daniel Johnson, District 21 Louisville
11 Metro Councilman, by counsel, and respectfully moves the Louisville Metro Council Court
12 to enter the following Order. The undersigned hereby certifies that copies hereof were
13 mailed and emailed to the following individuals on October 23, 2017:

14
15 Hon. H. Stephen Ott
16 Clerk, Louisville Metro Council
17 City Hall, 601 West Jefferson Street
18 Louisville, Kentucky 40202
Stephen.Ott@louisvilleky.gov

Hon. Mike O'Connell
Jefferson County Attorney
Jefferson Hall of Justice
600 West Jefferson Street
Louisville, Kentucky 40202
Mike.O'Connell@louisvilleky.gov

19 Hon. Deborah K. Kent
20 Deborah Kent Law Office
21 Suite 211
22 120 Sears Avenue
23 Louisville, Kentucky 40207-5072
dkent@twc.com

24 Respectfully submitted,



25 Thomas A. McAdam, III,
26 Attorney for Respondent
27 2950 Breckenridge Lane, Suite 9
28 Louisville, Kentucky 40220
(502) 584-7255 FAX: 585-2025
thomas@mcadam.com KBA: 45200

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4 **IN THE MATTER OF REMOVAL PROCEEDINGS AGAINST**
5 **DISTRICT 21 COUNCILMAN DAN JOHNSON**

6 **MEMORANDUM IN SUPPORT OF**
7 **RESPONDENT'S MOTION TO LIMIT**
8 **INCOMPETENT AND IMMATERIAL TESTIMONY AND EXHIBITS**
9 **(RESPONDENT'S MOTION NO. 6)**
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12 Comes now the Respondent herein, Hon. Daniel Johnson, District 21 Louisville
13 Metro Councilman, by counsel, and respectfully moves the Louisville Metro Council Court
14 to enter the following Order, limiting the introduction of incompetent and immaterial
15 testimony and exhibits
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17 (1) In the early evening of the 23rd instant, counsel for the Charging Committee
18 dropped off a package of 35 proffered exhibits at the undersigned counsel's office.

19 (2) The bulk of the proposed exhibits appears to be: a. Press articles containing
20 unverified hearsay and malicious defamatory statements against the Respondent; b.
21 Unverified written documents, absent any plausible authentication, containing unverified
22 hearsay and malicious defamatory statements against the Respondent; and an unverified
23 and unauthenticated "transcript" of a radio program.
24

25 (3) It is clear that the proposed use of these exhibits is a transparent attempt at
26 dilatory obfuscation; one which seeks to delay the proceedings and confuse the Council
27 Court.
28

1 (4) Council for Respondent has reason to believe that the council for the Charging
2 Committee will try to introduce irrelevant evidence that will only serve to divert, distract
3 and mislead the Council in determining the validity of the charges filed. The Charging
4 Committee must bear the burden and prove the relevancy and necessity of its proposed
5 evidence, prior to introduction at the hearing, and must prove that its proposed evidence
6 is directly related to the charges. The Charging Committee should not be permitted to
7 delay the hearing with irrelevant evidence. Respondent respectfully requests that Metro
8 Council Court exclude the Charging Committee from introducing irrelevant and
9 unnecessary evidence, incompetent or immaterial testimony, or unverified and
10 unauthenticated exhibits at the hearing herein.

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13 (5) Respondent reserves his due process right to object, at any time during the
14 hearing, to the introduction of any evidence which is incompetent, immaterial, without
15 foundation, or repetitive and dilatory.
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19 Respectfully submitted,

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21 _____
22 Thomas A. McAdam, III,
23 Attorney for Respondent
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4 **IN THE MATTER OF REMOVAL PROCEEDINGS AGAINST**
5 **DISTRICT 21 COUNCILMAN DAN JOHNSON**

6 **ORDER LIMITING INTRODUCTION OF**
7 **INCOMPETENT AND IMMATERIAL TESTIMONY AND EXHIBITS**
8
9 **(RESPONDENT’S MOTION NO. 6)**

10
11 Motion having been made, and the Louisville Metro Council Court being otherwise
12 sufficiently advised, it is hereby Ordered:

13
14 1. The Charging Committee must bear the burden and prove the relevancy and
15 necessity of any and all evidence, prior to introduction at the hearing, and must prove that
16 its evidence is directly related to the charges. The Charging Committee will not be
17 permitted to delay the hearing with irrelevant evidence. The Charging Committee is
18 prohibited from introducing any irrelevant and unnecessary evidence, incompetent or
19 immaterial testimony, or unverified and unauthenticated exhibits at the hearing herein.
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21 2. Respondent shall have a due process right to object, at any time during the
22 hearing, to the introduction of any evidence which is incompetent, immaterial, without
23 foundation, or repetitive and dilatory.

24 Louisville Metro Council Court

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27 By: _____
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