

LOUISVILLE METRO COUNCIL

COMMONWEALTH OF KENTUCKY
LOUISVILLE METRO GOVERNMENT
JEFFERSON COUNTYIN THE MATTER OF REMOVAL PROCEEDINGS AGAINST
DISTRICT 21 COUNCILMAN DAN JOHNSON**RESPONDENT'S MOTION FOR**
DISQUALIFICATION OF PRESIDENT DAVID YATES**(RESPONDENT'S MOTION NO. 2)**

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

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

Hon. Mike O'Connell
Jefferson County Attorney
Jefferson Hall of Justice
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Hon. Deborah K. Kent
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Respectfully submitted,



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2 **LOUISVILLE METRO COUNCIL**

**COMMONWEALTH OF KENTUCKY
LOUISVILLE METRO GOVERNMENT
JEFFERSON COUNTY**

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

7 **ORDER DISQUALIFYING PRESIDENT DAVID YATES**

8 **(RESPONDENT'S MOTION NO. 2)**

9 Motion having been made, and the Louisville Metro Council Court being otherwise
10 sufficiently advised, and pursuant to Rule 4 of the Louisville Metro Council Removal
11 Hearing Rules and Procedures:

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13 It appearing that the Louisville Metro Council David Yates, on July 4, 2017, wrote
14 and sent a letter to Councilman Dan Johnson, stating that "... (I) t has been brought to my
15 attention that some metro council employees are fearful and intimidated by your physical
16 presence...) an requesting that Councilman Johnson "...refrain from the second floor at
17 any time and that (Johnson) notify my office, via email...at least an hour prior to arriving
18 at City Hall to provide an opportunity for those employees to make any necessary
19 arrangements."; and,
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21 It further appearing that at least three of the enumerated charges in the Complaint
22 of the Charging Committee refer to the actions of President Yates:
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24 **Allegation No. 23.** Johnson also intentionally disregarded his
25 duty to the Council when the Council President directed him to stay off the
26 second floor of City Hall and further directed Johnson to send an email to
27 him an hour before entering the building because some employees were
28 fearful and intimidated by his physical presence. The President's action was
a result of Johnson's legal actions against Erin Hinson, described in
paragraph 7.

1 **Allegation No. 24.** Johnson did not respond to the President
2 directly and instead stated in an interview on 840 WHAS Radio, "I'll never
3 do that, because I am a councilman and I'm able to go to my office if I feel
4 like it."

5 **Allegation No. 25.** Johnson dismissed the President's request and
6 intentionally visited the second floor in an act of defiance and disrespect.

7 All of which make President Yates an indispensable material witness in this matter; and,

8 It further appearing that the Respondent, Councilman Dan Johnson has indicated
9 his intention of calling President Yates as a witness to testify in this matter; and,

10 It further appearing that Respondent intends to argue at his Removal Proceedings
11 that Louisville Metro Council President David Yates had no legal authority to write and
12 send his letter of July 4, 2017, and had no legal authority to bar Respondent from entering
13 the Second Floor of City Hall, and had no legal authority to require Respondent to notify
14 Yates' office "...at least an hour prior to arriving at City Hall..." and that Respondent was
15 and is under no legal obligation to obey or otherwise respond to the demands contained
16 in Yates' letter.

17 It further appearing that Respondent's right to substantive and procedural due
18 process would be seriously impaired and jeopardized if President Yates were to be allowed
19 to preside over the Removal Proceedings, rule on motions, rule on objections, and
20 otherwise conduct the business of the Louisville Metro Court, while, at the same time,
21 being a material witness and principal party to at least three of the charges alleged against
22 the Respondent; and,

23 It further appearing that allowing President Yates to preside over the Removal
24 Proceedings against Councilman Dan Johnson would make a mockery of justice and cast
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1 these entire proceedings into a light most unfavorable to the Louisville Metro Council and
2 the Louisville Metro Government.

3 The Louisville Metro Council Court HEREBY ORDERS:
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5 1. That President David Yates be, and he hereby is, disqualified, recused and
6 removed as presiding officer in the Removal Proceedings against Councilman Dan
7 Johnson; and,

8 2. The Louisville Metro Council Court shall, forthwith, elect from its members a
9 substitute presiding officer for the remainder of these Removal Proceedings.
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12 Louisville Metro Council Court
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14 By: _____
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