

**BEFORE THE  
NAVAJO NATION LABOR COMMISSION**

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DEC 12 2011

Navajo Nation  
Bar Association

<b>LENA SNAKE,</b>	)	
	)	
Petitioner,	)	<b>No. NNLC 2010-079</b>
	)	
<b>vs.</b>	)	<b>ORDER</b>
	)	
<b>NAVAJO NATION PROGRAM</b>	)	
<b>FOR SELF RELIANCE,</b>	)	
	)	
Respondent.	)	
	)	
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This matter came before the Navajo Nation Labor Commission (“Commission”) for an evidentiary hearing on December 6, 2011. Petitioner raised a preliminary matter by objecting to the recently Amended Rules of Proceedings Before the Navajo Labor Commission which became effective on November 14, 2011.<sup>1</sup> Specifically, Petitioner objected to Rule 15.I and Rule 15.K which pertain to the burden of going forward and the burden of proof for 15 N.N.C. § 604(B)(9) claims filed by the petitioner.

The Commission finds that Petitioner’s objections raise relevant issues regarding the propriety of the implementation of the Amended Rules; therefore, the Commission has determined that it is in the best interest of all concerned that amended Rule 15.I and Rule 15.K are hereby suspended pending the submission of briefs by the parties.<sup>2</sup> Members of the Navajo Nation Bar Association (“NNBA”) shall also have the opportunity to comment on the newly amended rules. Based on the foregoing, this matter is hereby continued pending a final decision on the propriety of Rule 15.I and Rule 15.K.

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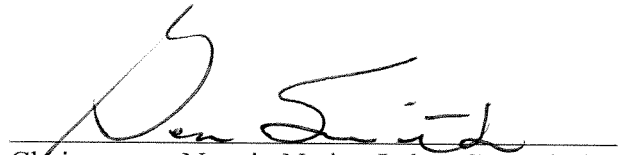
<sup>1</sup> Amended October 12, 2011 by Res. NNLC-OCT-01-2011.

**IT IS THEREFORE ORDERED** that the prior (December 3, 2009) Amended Rules of Proceedings Rule 15.I and Rule 15.K shall apply in all cases now pending before the Commission until otherwise notified.

**IT IS FURTHER ORDERED** that the parties shall submit briefs on the new rules by January 6, 2012.

**IT IS FURTHER ORDERED** that NNBA members shall have until January 31, 2012 to submit comments on the Amended Rules of Proceedings Before the NNLC.

**SO ORDERED** this 9<sup>th</sup> day of December, 2011.

  
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Chairperson, Navajo Nation Labor Commission

NNBA. *Perry v. Navajo Labor Commission & conc. Utah Navajo Dev. Corp., Real Party in Interest*, No. SV-CV-50-05, slip op. (Nav. Sup. Ct. Aug. 7, 2007).

- F. The Commission shall not be bound by any formal rules of evidence. The Chairperson may exclude evidence that is irrelevant, immaterial, or unduly repetitious.
- G. Each party may call, examine, and cross examine witnesses. The Commission shall have the right to question any of the witnesses upon the conclusion of their testimony. Either party may question those witnesses regarding only the issues raised by the Commission's inquiry.
- H. Each party shall have the opportunity to give an opening statement prior to the presentation of their case. The Respondent will give their opening statement first, followed by the Petitioner.
- I. Order of Proceedings: The Respondent shall first present evidence that they did not violate the NPEA. After the Respondent has rested, the Petitioner shall present evidence in support of his/her claim. EXCEPTION: The Petitioner shall proceed first where his/ her complaint includes a claim that Respondent created a hostile work environment and/ or harassed, humiliated or intimidated Petitioner in violation of 15 N.N.C §604(B)(9).
- J. At the conclusion of the presentation of evidence, each party may give closing arguments, with the Respondent allowed to give their argument first, followed by the Petitioner.
- K. The burden of proof shall be on the Respondent to show compliance with the provisions of the NPEA by a preponderance of the evidence. EXCEPTION: The burden of proof shall be on the Petitioner where his/ her complaint includes a claim that Respondent created a hostile work environment and/ or harassed, humiliated or intimidated Petitioner in violation of 15 N.N.C §604(B)(9).
- L. In the event a party does not make an appearance on the day set for hearing, the Commission may enter a default determination against the non-appearing party.