

Colorado Supreme Court 2 East 14th Avenue Denver, CO 80203	DATE FILED: May 22, 2023 CASE NUMBER: 2023SA114
Original Proceeding in Discipline Commission on Judicial Discipline 21-118	
In the Matter of: Complainant: The People of the State of Colorado, and Respondent: Nathan B. Coats, a former Chief Justice of the Colorado Supreme Court.	<p style="text-align: center;">△ COURT USE ONLY △</p> Case Number: 2023SA114
<b>Order Of Court</b>	

ISSUED.

TO: ALL PARTIES AND COUNSEL OF RECORD

Mr. Andrew Rottman — a non-party to this proceeding —submitted, through counsel, the attached motion to the special tribunal on May 16, 2023.

The special tribunal ORDERS that all parties respond to this motion, in writing and within 14 days of the date of this order, stating their positions as to:

- (1) whether a non-party may file a motion to intervene in the special tribunal.s review of a stipulation pursuant to R.J.D. 37(e) and R.J.D. 40; and
  - (2) Mr. Rottman.s factual and legal claims and requested relief.
- The parties shall file their responses with the special tribunal and serve them on Mr. Rottman, through counsel.

Mr. Rottman, through counsel, may submit a reply within 7 days of the last filed response.  
All responses to this order shall be maintained under seal as SUPPRESSED.

BY THE SPECIAL TRIBUNAL, EN BANC, MAY 22, 2023

Issue 5/22/2023

BY THE COURT

<p>Colorado Supreme Court 2 East 14th Avenue Denver, CO 80203</p>	
<p>Original Proceeding in Discipline Commission on Judicial Discipline 21-118</p>	
<p><b>In the Matter of Complainant:</b></p> <p>The People of the State of Colorado,</p> <p><b>and</b></p> <p><b>Respondent:</b></p> <p>Nathan B. Coats, a former Chief Justice of the Colorado Supreme Court.</p>	<p style="text-align: center;">▲ COURT USE ONLY ▲</p>
<p><b>Counsel for Andrew Rottman:</b> Mark A. Fogg, #9723 Daniel R. McCune, #14900 CHILDS MCCUNE LLC 821 17<sup>th</sup> Street, Suite 500 Denver, Colorado 80202 Telephone: (303) 296-7300 Facsimile: (720) 625-3637</p>	<p style="text-align: center;">Case No: 2023SA114</p>
<p style="text-align: center;"><b>ANDREW ROTTMAN'S MOTION FOR APPROPRIATE RELIEF</b></p>	

## CERTIFICATE OF COMPLIANCE

I hereby certify that this Motion complies with C.A.R. 27 and C.A.R. 32 including all formatting requirements set forth in these rules.

I acknowledge that my Motion may be stricken if it fails to comply with any of the requirements of C.A.R. 27 and C.A.R. 32.

  
Mark A. Fogg, #9723

Pursuant to Rules of Judicial Discipline 37 and 40, Article 6 of the Colorado Constitution, and Colorado Appellate Rules 2 and 27, by and through undersigned counsel, Andrew Rottman requests that this Special Tribunal strike a factually untrue statement from the parties' Stipulation for Public Censure in this matter and decline to include it in any final order of discipline. In the alternative, Mr. Rottman requests this Special Tribunal order the Commission on Judicial Discipline to provide evidence to Mr. Rottman immediately and allow additional briefing on the factual basis for the contested provision in the Stipulation.

This case presents an important, unaddressed question involving stipulations in judicial discipline proceedings: when a stipulation unnecessarily impugns a nonparty and violates principles of fairness and due process, at what point must this Special Tribunal intervene to ensure the resolution is just and proper, as required by the constitution? In this case, the Tribunal need not explore the boundaries of that concept as the violation is clear. The Stipulation accuses a nonparty of unethical conduct even though the nonparty was never contacted in the investigation, was never confronted with alleged evidence supporting the Stipulation, overwhelming direct evidence contradicts the Stipulation, and the only party with claimed evidence to support the Stipulation refuses to provide it. In such case, the nonparty simply

must have an opportunity to present the issue to this Tribunal prior to an order for discipline.

The Stipulation and recommendation in this case were filed pursuant to Rules 37 and 40 of the Rules of Judicial Discipline. Those rules address stipulations in the context of formal disciplinary proceedings and envision the filing of a record of the proceedings for this Tribunal's review. The parties here purport to waive the requirements of those rules and this Tribunal's ability to review the Stipulation. Given the unique nature of this proceeding and this Tribunal's constitutional role in reviewing a recommendation of the Commission, under Colorado Appellate Rule 2 there is good cause for the Tribunal to allow Mr. Rottman to file this Motion requesting relief pursuant to Colorado Appellate Rule 27.

### **Summary of Facts and Argument**

Mr. Rottman served as counsel to former Chief Justices Rice and Coats and is now counsel to Chief Justice Boatright. In that role, Mr. Rottman serves as a legal advisor to the Chief Justice, primarily on administrative matters of the Judicial Department. Mr. Rottman is a nonparty to this proceeding. The Commission on Judicial Discipline ("Commission") has no jurisdiction over Mr. Rottman.

Despite his status as a nonparty not subject to the Commission's jurisdiction, the Stipulation for Public Censure ("Stipulation") in this case unnecessarily and gratuitously includes a completely inaccurate statement about Mr. Rottman that impugns him by making an inaccurate allegation that he withheld material information from former Chief Justice Coats. Paragraph 24 of the Stipulation states: "Other evidence demonstrates Rottman reviewed Masias's separation agreement earlier, learned of the recording, but failed to notify Justice Coats of any such information." That statement is factually untrue and is contradicted by overwhelming evidence to the contrary and the conclusion of every other investigation into these same facts. The statement is fundamentally inconsistent with Mr. Rottman's core values as an attorney and will impact Mr. Rottman's career, future employment and reputation. Mr. Rottman was never contacted in the course of the Commission's investigation and was never presented with the "other evidence" referenced in this sentence. The Commission has rejected Mr. Rottman's repeated requests for the referenced "other evidence."

Mr. Rottman has never had the due process opportunity to confront and rebut this "evidence." Chief Justice Coats is the subject of the Stipulation, not Mr. Rottman, so including the statement about Mr. Rottman in the Stipulation is

unnecessary as it is not material to the discipline against Chief Justice Coats and should, therefore, be stricken.

This Tribunal has a constitutional obligation to issue an order that is just and proper and has authority to consider additional evidence in issuing an order. The Commission's decision to include in the Stipulation the inaccurate statement about Mr. Rottman without even giving him the opportunity to address this mistaken allegation or the "other evidence" to which the Stipulation refers is not just or proper, and this Tribunal should strike the sentence of Paragraph 24 referencing Mr. Rottman and not include that sentence in any order for discipline. In the alternative, Mr. Rottman requests this Tribunal order the Commission produce the "other evidence" in its entirety to Mr. Rottman and allow further briefing if necessary. Mr. Rottman is requesting that this Tribunal exercise its inherent powers to strike and disregard the allegation against him contained in the Stipulation, or, in the alternative, to ensure due process by requiring the Commission to produce the undisclosed evidence to which it ambiguously references in the Stipulation and give Mr. Rottman an opportunity to respond.



### Legal Basis for the Requested Relief

The constitutional structure of our system of judicial discipline tasks the Commission with making a recommendation for discipline to the supreme court or, in this case, the Special Tribunal. Colo. Const. art. VI, § 23. The Commission's recommendation is not conclusive or binding. Id. Even a stipulation of the parties is a recommendation to this Tribunal, which the Tribunal has an obligation to review and determine its compliance with the constitution and the Rules of Judicial Discipline. R.J.D. 37(e); R.J.D. 40.

The Special Tribunal has an unqualified constitutional obligation to consider the Commission's recommendation for discipline and issue an order that is "just and proper." Colorado Const., art. 6, §23(3)(f).<sup>1</sup> In so doing, the Tribunal may consider additional evidence. Id. If appropriate, the Tribunal may reject the Commission's

---

<sup>1</sup> (f) Following receipt of a recommendation from the commission, the supreme court shall review the record of the proceedings on the law and facts and in its discretion **may permit the introduction of additional evidence** and shall order removal, retirement, suspension, censure, reprimand, or discipline, as it finds just and proper, or wholly reject the recommendation. Upon an order for retirement, the justice or judge shall thereby be retired with the same rights and privileges as if he retired pursuant to statute. Upon an order for removal, the justice or judge shall thereby be removed from office, and his salary shall cease from the date of such order. On the entry of an order for retirement or for removal of a judge, his office shall be deemed vacant.

Colo. Const. art. VI, § 23. (emphasis added).

recommendation. Id. Rule 40 of the Rules of Judicial Discipline allows the Commission to submit a stipulated recommendation for discipline to the Tribunal.<sup>2</sup> If a stipulation is filed under Rule 40, the Special Tribunal is required to consider the record of the proceedings “and additions thereto” and is required to consider whether the stipulation is or is not supported by the record of the proceedings. R.J.D. 40. Rule 40 also requires this Court to examine whether the terms of the stipulation comply with Rule 37(e).

Rule 37 addresses stipulations in the context of formal proceedings, after there has been a filing of formal charges, a response, and appointment of special masters.<sup>3</sup>

---

<sup>2</sup> The Supreme Court shall consider the evidence and the law, including the record of the proceedings and additions thereto; the special masters' report; the Commission's recommendation; and any exceptions filed under Rule 38. The Court shall issue a decision, in which it may dismiss the complaint; adopt or reject the recommendation of the Commission; adopt the recommendation of the Commission with modifications; or remand the proceedings to the Commission for further action. Provided, however, that if the Commission has recommended a stipulated resolution, the Court shall order it to become effective and issue any sanction provided in the stipulated resolution, unless the Court determines that its terms do not comply with Rule 37(e) or are not supported by the record of proceedings. The decision of the Court, including such sanctions as may be ordered, shall be final. Unless confidentiality is required under Rule 37, the decision shall be published.

R.J.D. 40

<sup>3</sup> **(a) Filing the Record of Proceedings and Recommendation.** Upon the Commission's consideration of the report of the special masters, the executive director shall file, with the clerk of the Supreme Court, the record of the

Under Rule 37(e), a stipulated resolution of formal proceedings must include “material” facts, the Commission must determine that the stipulation complies with the Rules, and then the Commission may submit to this Tribunal a stipulated recommendation for discipline along with the record of proceedings.<sup>4</sup> Undersigned counsel is not aware of any formal proceedings in this case, a special masters’ report, or a record of the proceedings as contemplated by Rule 37. Accordingly, the strict

---

proceedings and the Commission's recommendation to the Court for dismissal, sanctions, a private disposition, or a stipulated resolution.

R.J.D. 37.

<sup>4</sup> **(e) Stipulated Resolution of Formal Proceedings.** Special counsel and the Judge may propose that the Commission adopt a stipulated resolution of formal proceedings, which shall include summaries of the principal allegations, the Judge's response, **and material facts** that are agreed or remain disputed; relevant Canons, Canon Rules, or provisions of Colo. RJD; recommendations for dismissal or sanctions; and an acknowledgement that the stipulated resolution and the record of proceedings will become public. If the Commission finds that the terms of the stipulated resolution comply with these requirements, it shall file the stipulated resolution with the Supreme Court as its recommendation under this Rule. The recommendation, the stipulated resolution, the record of proceedings, and any sanctions proposed in the stipulated resolution shall become public upon the Commission's filing of the recommendation with the Court. However, if it provides for dismissal, the stipulated resolution and the record of proceedings shall be confidential pending the Court's consideration, and if approved by the Court, the stipulated resolution and the record of proceedings shall remain confidential, subject to the provisions of Rule 6.5(g).

R.J.D. 37. (emphasis added).

application of Rule 37(e) and Rule 40 is not appropriate because many of those provisions address a process that was not followed here.

The constitutional role of this Tribunal in determining whether the Commission's recommendation is "just and proper" is not limited to whether the parties agree that the recommendation is just and proper. The Tribunal must also determine whether it is holistically just and proper, including just and proper to nonparties, any victims, and witnesses. There are myriad situations where a stipulated resolution might be too harsh or too lenient or the stipulated facts disregard the interests of nonparties, victims and witnesses, and this Tribunal serves as a backstop to ensure any order for discipline is appropriate. In aid of that determination, the constitution and rules allow the Tribunal to consider additional evidence. Although Rule 40 contemplates a record of proceedings for this Tribunal to determine whether the stipulation is supported, there is no record in this case (and certainly not one that supports the contested portion of the Stipulation).

In the Recommendation for Judicial Discipline, the parties purport to waive this Tribunal's obligations under the constitution and rules. As stated above, the Commission's role in these proceedings is a recommendatory one. Colorado Const., art. VI, §23(3)(e), (f); R.J.D. 40. Even if the parties agree to forfeit any review of the Stipulation, this Tribunal still has an obligation under the constitution and Rules of

Judicial Discipline to determine whether the Commission's recommendation is supported by the record and issue discipline that it believes is just and proper. It is highly doubtful that the parties can stipulate away this Tribunal's constitutional obligation and the process set forth in the Rules. Additionally, the parties' stipulation to this Tribunal's role cannot bind Mr. Rottman and foreclose him from requesting relief.

### **Facts**

The facts directly relevant to Paragraph 24 of the Stipulation are straightforward. In 2017, the Judicial Department's former Chief of Staff surreptitiously recorded a conversation with former Chief Justice Rice. In December of 2018, several employees at the State Court Administrator's Office, including the former State Court Administrator, learned of the recording. The existence of a recording was referenced in an Agreement for Resignation and Release of Claims ("Resignation Agreement")<sup>5</sup> with the former Chief of Staff finalized on March 18, 2019, and signed by the former State Court Administrator. However, the surreptitious recording of Justice Rice was never disclosed to former Chief Justice

---

<sup>5</sup> The document is titled an "Agreement for Resignation and Release of Claims." The Stipulation refers to this document as a "separation agreement."

Coats or Mr. Rottman until a meeting in July of 2019. To Mr. Rottman's knowledge, these basic facts have not been disputed or contradicted by any witness, document, or the conclusion of any of the other investigations that looked into these facts.

In the affidavit attached as Exhibit A, Mr. Rottman provides evidence to this Tribunal that he and former Chief Justice Coats received a "final" draft of the Resignation Agreement on November 5, 2018, that did not contain any reference to a recording. The Resignation Agreement was subsequently modified without Mr. Rottman's knowledge to include a reference to the recording. Mr. Rottman never received or reviewed the Resignation Agreement mentioning a recording prior to July 15, 2019. He learned about the recording at the same time, in the same meeting, as former Chief Justice Coats.

However, on May 3, 2023, Mr. Rottman received a copy of the Stipulation in this matter that contains a sentence in Paragraph 24 alleging Mr. Rottman had reviewed Ms. Masias's separation agreement, had actual knowledge of a surreptitious recording of former Chief Justice Rice, and failed to disclose the existence of the recording to former Chief Justice Coats. None of that is true.

Four other investigations have looked into the same facts at issue here. It has been an undisputed fact in every other investigation that Justice Coats and Mr. Rottman learned of the recording at the same time, in the same July 2019 meeting.

That undisputed fact was supported by numerous witness statements and documentary evidence. The investigation report from outside investigators (former U.S. Attorney Bob Troyer and Nicholas Mitchell), posted publicly on the courts' webpage,<sup>6</sup> concludes:

“Neither Ryan nor Morrison ever shared the Resignation Agreement with either Coats or Rottman.”

Page 25.

“At this meeting, in July 15, 2019, Ryan directed Morrison to tell Coats and Rottman about that recording. This was the first time that Coats or Rottman were told of the recording even though Ryan, Brown, and Morrison had known about it for at least seven months. During that time, Ryan had taken numerous steps to prevent Coats and Rottman from finding out about the recording.” . . . “Coats and Rottman were stunned and furious that so many senior personnel had withheld this critical information from them for so long.”

Page 31.

The Office of Attorney Regulation counsel (“OARC”), the only regulatory body with authority over Mr. Rottman, hired outside investigators to look into the same facts and allegations that prompted the Commission’s investigation in this case. The OARC Investigation Report is in the Commission’s possession. The

---

6

<https://www.courts.state.co.us/userfiles/file/announcements/Troyer%20Mitchell%20Report-%20Independent%20Investigation%20into%20Leadership%20Services%20Contract.pdf>

Report similarly finds that former Chief Justice Coats and Mr. Rottman were never told of the recording and first learned of it on July 15, 2019. The outside investigators specifically addressed the question of who had knowledge of the recording and when. Citing numerous documents and interviews, the investigators concluded that Mr. Rottman and former Chief Justice Coats learned of the recording at the same time. OARC did not cite to any evidence that would suggest this conclusion was in any way disputed.

The Office of the State Auditor found in its fraud hotline investigation report that former Chief Justice Coats learned of the recording in July 2019. It did not determine that Mr. Rottman had any knowledge of the recording or the separation agreement prior to July 2019.<sup>7</sup> A separate investigation by Investigations Law Group examined the contents of the surreptitious recording but did not investigate the facts regarding when or how the recording was disclosed to Mr. Rottman or Justice Coats.<sup>8</sup>

In this case, the Commission retained special counsel to serve as the investigator and prosecutor. Mr. Rottman was never contacted or interviewed in the course of special counsel's years' long investigation. Special counsel never

---

<sup>7</sup> [https://www.courts.state.co.us/userfiles/file/Executive\\_Summary\\_Final.pdf](https://www.courts.state.co.us/userfiles/file/Executive_Summary_Final.pdf)

<sup>8</sup> <https://www.courts.state.co.us/userfiles/file/announcements/ILG--Colorado%20Judicial%20Branch%20Final%20Report--7-11-2022.pdf>



provided Mr. Rottman an opportunity to review the referenced “other evidence” or respond to it. Mr. Rottman is entirely unaware of the basis for the statement and the reference to “other evidence.” As explained below, Mr. Rottman has been denied any access to the “other evidence.”

It is our understanding from communications with counsel for Chief Justice Coats that Chief Justice Coats allowed the contested language in the Stipulation in reliance upon the representations from the Commission’s counsel that they had “other evidence.” Neither the Chief Justice nor his counsel were ever provided with that evidence. In Chief Justice Coats’s statements to other investigators, Mr. Rottman is not aware of any claim by former Chief Justice Coats that he believed Mr. Rottman was aware of the recording before he was and did not disclose it.

In the affidavit attached as Exhibit A, Mr. Rottman states that he had no knowledge of the surreptitious recording of Justice Rice prior to July 15, 2019. Prior to July 15, 2019, Mr. Rottman did not receive or review a copy of the Resignation Agreement mentioning a recording. Mr. Rottman learned of the recording at the same time as former Chief Justice Coats. Numerous other witnesses were present when Mr. Rottman and former Chief Justice Coats learned of the recording. Mr. Rottman’s affidavit provides this Tribunal with evidence that Mr. Rottman did not

learn of the recording and fail to disclose it to former Chief Justice Coats; rather, he was similarly unaware the recording existed.

**Mr. Rottman’s Attempts to Obtain the “Other Evidence”**

Mr. Rottman has no knowledge of what “other evidence” supports the contested sentence in Paragraph 24 of the Stipulation. As stated above, Mr. Rottman’s consistent statements to every investigator, supported by documents, evidence, and other witnesses, establish that he learned of the surreptitious recording at the same time as former Chief Justice Coats – on July 15, 2019.

After receiving the Stipulation, Mr. Rottman contacted both counsel for former Chief Justice Coats and Special Counsel for the Commission to learn the basis for this sentence. Counsel for former Chief Justice Coats was unaware of what the referenced “other evidence” is and did not know the basis for the assertion regarding Mr. Rottman. Separately, on May 3 and 4, Mr. Rottman requested the Commission and its special counsel provide the “other evidence” to Mr. Rottman directly. On May 4, the Commission denied this request, attached hereto as Exhibit B. On May 6, Mr. Rottman sent a request to the Commission to remove the inaccurate statement from the Stipulation. On May 10, the Commission denied Mr.

Rottman's request, claiming that there is unnamed evidence that supports the statement and that the statement was the result of negotiations between the parties.

**The Contested Statement is Not a Material Fact in the Stipulation**

Rule 37(e) requires that "material facts" be included in a Stipulation. R.J.D. 37(e). The contested statement is not a material fact that is relevant, essential, or determinative to ultimate issues in the Stipulation or the issuance of a "just and proper" order by the Tribunal. It adds nothing to the resolution of the disciplinary proceedings and serves only to impugn Mr. Rottman on the core values as an attorney and unnecessarily causes him harm without according him due process. If special counsel and the Commission believed the knowledge and actions of Mr. Rottman, a nonparty witness, were material to the resolution of the proceedings, it was incumbent on them to consider the mountains of direct evidence contradicting the disputed sentence, to present the claimed "other evidence" to Mr. Rottman, and allow him to respond. The Tribunal may exercise its discretion and decline to include an immaterial fact in the order for discipline.

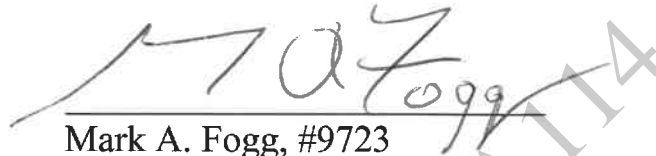
## **Request for Relief**

This Tribunal has an unqualified constitutional obligation to issue an order that is just and proper. It is neither just nor proper to issue an order in this case that includes as “facts” an allegation about the actual knowledge of a nonparty to the proceedings, who was never contacted in the course of the investigation, who was never provided an opportunity to respond to the “facts,” and where the only party in possession of alleged evidence establishing those “facts” refuses to provide it. Mr. Rottman has presented evidence in the attached affidavit, supported by the conclusion of every other investigation to date, that the disputed sentence is untrue.

Mr. Rottman respectfully requests that the Tribunal strike the reference to Mr. Rottman in paragraph 24 and ensure that the Tribunal’s order for discipline not contain any portion of the statement: “Other evidence demonstrates Rottman reviewed Masias’s separation agreement earlier, learned of the recording, but failed to notify Justice Coats of any such information.” Alternatively, Mr. Rottman requests an order from this Tribunal requiring the Commission to disclose the “other evidence” in its entirety and allow Mr. Rottman to request additional briefing on this issue.

Dated this 16<sup>th</sup> day of May 2023.

CHILDS MCCUNE LLC

A handwritten signature in black ink, appearing to read 'MAFog', is written over a horizontal line. The signature is slanted and somewhat stylized.

Mark A. Fogg, #9723

Daniel R. McCune, #14900

CHILDS MCCUNE LLC

821 17<sup>th</sup> Street, Suite 500

Denver, Colorado 80202

Telephone: (303) 296-7300

Facsimile: (720) 625-3637

*Attorneys for Andrew Rottman*

Attachment to Ord

## CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 16<sup>th</sup> day of May 2023, the foregoing **ANDREW ROTTMAN'S MOTION FOR APPROPRIATE RELIEF** was electronically served and placed in the U.S. mail, postage pre-paid, and addressed to the following:

Christopher S.P. Gregory, Esq.  
Ralph L. Carr Colorado Judicial Center  
1300 Broadway St., Suite 210  
Denver, CO 80203

### *Colorado Commission on Judicial Discipline*

John S. Gleason, Esq.  
Alec Rothrock, Esq.  
Burns, Figa, & Will, P.C.  
6400 South Fiddler's Green Cir., Ste. 1000  
Greenwood Village, CO 80111

### *Attorneys for Respondent former Chief Justice Nathan B. Coats*

Qusair Mohamedbhai, esq.  
Omeed Azmoudeh, esq.  
Rathod Mohamedbhai, LLC  
2701 Lawrence St., #18  
Denver, CO 80205

### *Appointed Special Counsel*

/s/ Staci Gramlich

EXHIBIT A

Attachment to Order - 2023SA114

Colorado Supreme Court 2 East 14th Avenue Denver, CO 80203	<b>▲ COURT USE ONLY ▲</b>  <hr/> Case No: 2023SA114
Original Proceeding in Discipline Commission on Judicial Discipline 21-118	
<b>In the Matter of Complainant:</b>  The People of the State of Colorado,  <b>and</b>  <b>Respondent:</b>  Nathan B. Coats, a former Chief Justice of the Colorado Supreme Court.	
<b>AFFIDAVIT OF ANDREW ROTTMAN</b>	

I, Andrew Rottman, swear that the following information is true and correct to the best of my knowledge and belief.

1. From July 2015 to the present, I have served as counsel to the Chief Justice.
2. On November 5, 2018, former State Court Administrator Christopher Ryan emailed a “final” draft Agreement for Resignation and Release of Claims (“Resignation Agreement”) for the Judicial Department’s former Chief of Staff, Mindy Masias to both me and former Chief Justice Coats.
3. The November 5, 2018 “final” draft Resignation Agreement makes no mention of a recording.
4. Prior to July 15 or 16, 2019, I had no knowledge that the Judicial Department’s former Chief of Staff, Mindy Masias, surreptitiously recorded a conversation with former Chief Justice Rice.
5. I did not fail to disclose the existence of the surreptitious recording of former Chief Justice Rice to former Chief Justice Coats. I learned of the recording at the same time, in the same meeting, as former Chief Justice Coats.

**EXHIBIT A**



6. I first learned of the surreptitious recording of former Chief Justice Rice at a meeting in former Chief Justice Coats's Chambers on July 15 or 16, 2019.

7. The others in attendance at that meeting were former Chief Justice Coats, former State Court Administrator Christopher Ryan, Terri Morrison, another member of SCAO's legal team, and the Judicial Department's Public Information Officer.

8. At that meeting, Terri Morrison disclosed the existence of the recording to me and former Chief Justice Coats in the presence of the others in attendance.

9. During that meeting, after learning of the recording, both Justice Coats and I asked former State Court Administrator Christopher Ryan why we weren't told about the recording earlier.

10. On July 16, 2019, I received a copy of the executed Resignation Agreement for Ms. Masias that was changed from the "final" draft sent to Justice Coats and myself that now referenced a recording she made of a Justice of the Supreme Court.

11. I am confident that I never received or reviewed the Resignation Agreement of the former Chief of Staff, Mindy Masias, prior to July 15 or 16, 2019, that references a recording of a Justice of the Supreme Court.

12. I have thoroughly searched my electronic and paper records. I have no record of receiving the Resignation Agreement referencing a recording prior to July 16, 2019. I was not involved in drafting or editing the Resignation Agreement.

13. I was not involved in negotiating the Resignation Agreement with Mindy Masias's counsel.

14. Since 2021, I have been contacted and interviewed for investigations by the Office of the State Auditor, the Office of Attorney Regulation Counsel, and by former U.S. Attorney Robert Troyer and Nicholas Mitchell, serving as the Judicial Department's outside investigators, and by Investigations Law Group, also serving as the Department's outside investigator. In the course of these investigations, I never stated to any investigator that I had knowledge of the surreptitious recording prior to July 15, 2019, or that I failed to disclose it to former Chief Justice Coats.

15. In these interviews, I was never presented with any evidence suggesting I knew about the surreptitious recording prior to July 15, 2019.



**EXHIBIT B**

*Attachment to Order - 2023SA114*

# COLORADO COMMISSION ON JUDICIAL DISCIPLINE



May 4, 2023

**CCJD Case No. 21-118**

Mr. Andrew Rottman, esq.  
Colorado Supreme Court  
2 E. 14th Avenue, 4th Floor  
Denver, CO 80203  
Via E-Mail:

Dear Mr. Rottman:

On May 3, 2023 and May 4, 2023, the Commission, directly and through its Special Counsel, received your emails requesting disclosure of investigative materials relating to the Stipulation for Public Censure filed with the Colorado Supreme Court by the Commission and Chief Justice Coats (ret.). You have indicated that you disagree with one of the factual stipulations entered by the two parties to the case and have requested that the Commission release to you underlying evidence from the investigation file. Although the Stipulation and related court filings are public documents, the Commission's investigation materials remain confidential under Colo. Const. Art. VI, § 23(3)(g), Colo. RJD 6.5, and § 24-72-401, C.R.S. Accordingly, the Commission must respectfully deny your request for release of those materials.

Sincerely,

  
Christopher S.P. Gregory  
Executive Director

Cc: Rathod Mohamedbhai, LLC

**EXHIBIT B**