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CASE NUMBER: 2023SA114

<b>Colorado Supreme Court</b> 2 East 14th Avenue Denver, CO 80203 720-625-5150	
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.	
<b>Attorneys for Respondent</b> Name: John S. Gleason, Esq. Alec Rothrock, Esq. Address: BURNS, FIGA & WILL, P.C. 6400 South Fiddler's Green Circle Suite 1000 Greenwood Village, Colorado 80111 Telephone: (303) 796-2626 Facsimile: (303) 796-2777 E-mail:	▲ <b>COURT USE ONLY</b> ▲ Case Number: 2023SA114
<b>RESPONSE TO ORDER OF SPECIAL TRIBUNAL</b>	

Through his counsel, Justice Coats responds to the Order of Court of May 22, 2023 as follows:

1. With regard to the intervention of a non-party, Justice Coats is unaware of any specific provision or any general principle of law that would bar a non-party expressly named in a stipulation pursuant to R.J.D.37(e) and R.J.D 40 as having committed unethical conduct from intervening to refute that accusation. General principles of fairness would appear to require that such a party be given an opportunity to respond and demonstrate that the statement is false, or in

any event, immaterial to the stipulation in question. In *Burleson v. Hayatun*, 273 P.2d 124 (Colo. 1954), the Colorado Supreme Court issued an opinion that criticized former counsel for the plaintiff. The plaintiff then reported the lawyers to the Grievance Committee, which investigated and found them not guilty of unprofessional conduct. The Grievance Committee reported its finding to the Court. Without analyzing its authority for doing so, the Court issued an opinion to “vindicate, exculpate and free [the lawyers] from the charge” of misconduct included in the Court’s opinion in the underlying case. *In re Hayatun*, 317 P.2d 893 (Colo. 1957).

2. With regard to the factual and legal claims and relief requested by Mr. Rottman’s motion, Justice Coats considers the clear implication of Paragraph 24 of the Stipulation - that Mr. Rottman was aware of a surreptitious or otherwise improper recording by Masias of which Justice Coats should have been apprised - to be factually incorrect, and in any event, as a legal matter he considers the substance of Paragraph 24 to be immaterial to his Stipulation for Public Censure.

3. As to the clear implication of Paragraph 24, Justice Coats is personally aware that Mr. Rottman was as stunned as Justice Coats himself at the July 15, 2019 revelation that Ms. Masias had surreptitiously recorded a private conversation with former Chief Justice Rice. Justice Coats is aware of at least two extensive investigations – one conducted by the Troyer group, selected by a committee of officers of the executive and legislative branches of government, and the other conducted by Special Counsel appointed by the Chair of the Legal Regulation Committee to investigate these precise issues – that concluded both Justice Coats and Mr. Rottman simultaneously learned of the surreptitious recording of Chief Justice Rice by Masias for the first time on July 15, 2019. The Troyer report further specified in some detail the steps taken by State Court Administrator Ryan and the SCAO Chief Legal Officer Morrison to prevent Coats, Rottman, and the Attorney General from finding out about the recording, expressly concluding that Morrison actually hid it from them.

4. As to the materiality of Paragraph 24 of the Stipulation for Public Censure, in the absence of any allegation that Rottman not only knew of but also told Justice Coats about the

surreptitious recording, it is difficult to grasp how Rottman's awareness, or lack thereof, could be material or relevant to the censure of Justice Coats for failing to competently perform his administrative duties.

Respectfully submitted this 31<sup>st</sup> day of May, 2023.

BURNS, FIGA & WILL, P.C.

*\*\*Original signature at the offices of  
Burns, Figa & Will, P.C.\*\**

By: S/ John S. Gleason

John S. Gleason (#15011)

Alec R. Rothrock (#21201)

**Attorneys for Respondent  
Justice Coats**

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on this 31<sup>st</sup> day of May, 2023, a true and correct copy of the above and foregoing **RESPONSE TO ORDER OF SPECIAL TRIBUNAL** was served on the following via the established electronic filing system, addressed as follows:

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S/ Karina Sapp\_\_\_\_\_