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**Re: In the Matter of the Investigation of the Honorable Wendell Griffen, JDDC  
Case No. 17-172**

Dear Messrs. Laux, Porter, and Matthews,

The undersigned serve as counsel for each of the Justices of the Arkansas Supreme Court with respect to the subpoenas served upon them, commanding their appearance at the Judicial Discipline and Disability Commission (JDDC), now returnable on June 10, 2019 in the above-captioned matter. We also inform you that we also represent Stacey Pectol, Clerk of the Arkansas Supreme Court who had previously received a subpoena in this matter and raised objections to it in a letter dated January 17, 2019.

By this letter, all seven justices, through their attorneys, object to the subpoenas on grounds of relevancy and privilege. The Justices are non-parties to this matter and have no personal knowledge of the conduct at issue that is described in the Statement of Allegations against your client. As you know, Rule 26(b)(1) of the Arkansas Rules of Civil Procedure limits discovery to information that is not privileged but is relevant to the issues in the pending action.

Order 17-155 issued by the Arkansas Supreme Court is not relevant or material to the Statement of Allegations being investigated by the JDDC, is a matter of public record, and speaks entirely for itself. One cannot delve further, through the deposition/discovery process into the announced results of judicial-decisionmaking, precisely because of the privilege that attaches to the judicial function. The privilege serves to protect the finality of judgments and discourages collateral attacks on the decision, while it also serves the cause of "judicial independence by insulating judges from vexatious actions prosecuted by disgruntled litigants." *Forrester v. White*, 484 U.S. 219, 225 (1988). The judicial process also subsumes into it what is sometimes called the


“deliberative process privilege,” which recognizes and protects the “mental processes” of the judicial decisionmaker in order to permit the panel to “communicate candidly among themselves” and to enhance the quality of their decisions without making “each remark ... a potential item of discovery and front page news.” See *Dep’t of Interior v. Klamath Water Users Protective Ass’n*, 532 U.S. 1, 8-9 (2001). See also *Statement of the Judges*, 14 F.R.D. 335 (N.D. Cal. 1953).

For these reasons, the Justices object to the subpoenas issued to Chief Justice John Dan Kemp, Justice Robin F. Wynne, Justice Courtney Hudson Goodson, Justice Josephine L. Hart, Justice Shawn A. Womack, Justice Karen R. Baker, and Justice Rhonda K. Wood.

Sincerely,



Timothy O. Dudley



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cc: Marie-Bernarde Miller, Esq.  
Commission Counsel