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IN THE SUPREME COURT OF THE STATE OF MONTANA
PR 23-0496

IN THE MATTER OF AUSTIN MILES)
KNUDSEN,)
)
An Attorney at Law,)
)
Respondent.)
)
)

ODC File No. 21-094

**RESPONDENT'S RESPONSE TO
ODC'S OBJECTION TO
RESPONDENT'S REPLY**

The Office of Disciplinary Counsel (“ODC”) filed an “objection” to Respondent’s Reply in support of his Objections to the Commission on Practice’s Findings of Fact, Conclusions of Law, and Recommendation. ODC’s objection lacks merit because the Montana Rules for Lawyer Disciplinary Enforcement (“MRLDE”) do not prohibit reply briefs. A reply brief is also particularly important in this case because ODC’s Response contains significant legal and factual inaccuracies and mischaracterizations. The Court should disregard ODC’s objection.

First, MRLDE Rule 16 doesn’t prohibit reply briefs—it’s silent on them. ODC provides no support for its objection other than a negative inference from that silence. Second, this Court does permit parties to file reply briefs in disciplinary cases without first seeking leave. *See, e.g.,* Respondent’s Reply to ODC’s Response to Respondent’s Objections, *In re Cushman*, No. PR 17-0665 (June 24, 2019); ODC’s Reply Brief, *In Re: Olson*, PR 07-0131 (Oct. 31, 2009). It’s telling that ODC filed a hollow “objection” rather than litigating a formal motion to strike under M.R.App.R. 16.

To the extent there’s ambiguity as to whether replies are permitted, the Court should allow one here. ODC’s Response contains significant

inaccuracies deserving of the Court’s attention. For example, ODC’s Response grossly mischaracterizes the hearing transcript as it attempts to run away from its “collateral attack” objections. Reply at 14-17. Respondent’s Reply cites the numerous instances in the hearing transcript that contradict ODC’s position. Reply at 15-16. Respondent’s Reply also points out that ODC continues to misrepresent one of its sources of authority, *Paxton v. Comm’n for Law. Discipline*, No. 05-23-00128-CV, 2024 WL 1671953 (Tex. Ct. App. Apr. 18, 2024), as a Texas Supreme Court case when, in fact, it’s a Texas Court of Appeals case (that was ultimately reversed by the Texas Supreme Court). See Reply at 23-24. Respondent’s Reply is full of other examples where ODC’s Response makes inconsistent or legally incorrect arguments.

Finally, although not an inaccuracy or mischaracterization by ODC, Respondent’s Reply cites a recent House Judiciary Committee Hearing where the lobbyist for the State Bar of Montana stated that the Montana Judges Association recognized that Supreme Administrator Beth McLaughlin’s polling of judges during the 2021 legislative sessions created the “appearance of impropriety.” Reply at 37-38. Since much of ODC’s prosecution of the Attorney General concerns alleged violations of

Rule 8.2(a), where ODC claims the Attorney General lacked an objectively reasonable basis for making assertions about judicial misconduct and impropriety related to those same polls, ODC Resp. at 49, that new admission is significant. Reply at 36-38.

For these reasons, the Court should disregard ODC's objection.

DATED this 10th day of February 2025.

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CERTIFICATE OF COMPLIANCE

Pursuant to Rule 11 of the Montana Rules of Appellate Procedure, I certify that this principal brief is printed with a proportionately spaced Century Schoolbook text typeface of 14 points; is double-spaced except for footnotes and for quoted and indented material; and the word count calculated by Microsoft Word for Windows is 442 words, excluding certificate of service and certificate of compliance.

/s/ Christian B. Corrigan
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CERTIFICATE OF SERVICE

I, Christian Brian Corrigan, hereby certify that I have served true and accurate copies of the foregoing Response/Objection - Other to the following on 02-10-2025:

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