

**STATE OF VERMONT
PROFESSIONAL RESPONSIBILITY PROGRAM**

**In re Thomas Melone
PRB File No. 120-2025**

**ENTRY ORDER
MOTIONS TO QUASH**

Before the Hearing Panel are three motions to quash subpoenas duces tecum which were issued by Respondent to the following:

- (1) Edward McNamara. Motion filed by Conflict Disciplinary Counsel (CDC)
- (2) Jeanette Jenkins, James Sullivan, Shannon Barsotti, and Dan Monks.
Motion filed by CDC.
- (3) Jeanette Jenkins, James Sullivan, Shannon Barsotti, and Daniel Monks.
Motion filed by attorney for Town of Bennington.

Also before the Hearing Panel is CDC's unopposed motion to reconsider the Entry Order of December 11, 2025.

Disciplinary proceedings are generally governed by the Vermont Rules of Civil Procedure and the Vermont Rules of Evidence except as otherwise provided in Administrative Order (A.O.) 9. A.O. 9, Rule 20 B. By reason of Rule 20 B, Rule 26 of the Vermont Rules of Civil Procedure, "General Provisions Governing Discovery," controls the issues before the Panel. Rule 26 is limited, however, by A.O. 9, Rule 19 B (3) which provides

Discovery proceedings under these rules are not subject to the Vermont Rules of Civil Procedure regarding discovery except those relating to depositions and subpoenas.

Rule 26 anticipates that counsel may have objections to discovery sought by an opposing party. *See, e.g.*, V.R.C.P. 26 (h). The Rule provides that,

Counsel have the obligation to make good faith efforts among themselves to resolve or reduce all differences relating to discovery procedures and to avoid filing unnecessary motions.

The Rule further provides,

No motions pursuant to Rules 26 and 37 shall be filed unless counsel making the motion has conferred with opposing counsel or has attempted to confer about the discovery issues between them in detail in a good faith effort to eliminate or reduce the area of controversy, and to arrive at a mutually satisfactory resolution. . . .

There is no indication in any of the motions to quash or in the opposing memoranda that there have been any effort among counsel to confer or to resolve the issues raised by their filings. Accordingly, the motions to quash are not properly before the Hearing Panel at this time.

ORDER

1. The motions to quash are *denied*. They may be renewed if necessary (by reference if appropriate) after compliance with V.R.C.P. 26(h).
2. The parties (including the Town of Bennington) are directed to confer pursuant to V.R.C.P. 26 no later than February 2, 2026, and to report the results thereof to the Panel no later than February 9, 2026
3. The Entry Order dated December 11, 2026, purporting to quash a subpoena is *vacated*.

Dated this 20th day of January 2026,

Hearing Panel No. 2

By: Mimi Brill
Mimi Brill, Esq., Chair¹

¹ The Hearing Panel Chair alone determines the validity of a subpoena and any disputes concerning discovery. A.O. 9, Rule 19 A (4) and 19 B (2)