

THE STATE OF NEW HAMPSHIRE

SUPERIOR COURT

ROCKINGHAM, SS.

OCTOBER, 2025

STATE OF NEW HAMPSHIRE

v.

GENO MARCONI

**218-2024-CR-1426**

DEFENDANT’S RESPONSE TO MOTION TO QUASH

NOW COMES the defendant, Geno Marconi, by and through counsel, Richard E. Samdperil and Joseph E. Welsh, and responds to the State’s Motion to Quash Subpoena (AG Formella) as follows:

1. Geno Marconi is charged with two felonies and four misdemeanors in connection to allegations that he provided a motor vehicle record to the chairman of the Port Advisory Council, and that he deleted a voicemail or voicemails from a personal phone number on his PDA issued phone.

2. The defense has listed Attorney General John Formella as a witness in this case. The State has moved to quash the subpoena, claiming Attorney General Formella is not a “necessary witness” in this case. The State further argues, “Allowing such a subpoena would subject the Office of the Attorney General to being subpoenaed in every

criminal and civil trial prosecuted (and every civil trial defended) in the name of the State of New Hampshire.”

3. The defense disagrees. This case is hardly comparable to the vast majority of criminal and civil cases handled by the New Hampshire Department of Justice (NH DOJ) where the Attorney General merely oversees criminal law enforcement and civil representation of the State. To the contrary, the Attorney General’s prior role as counsel to Governor Sununu is relevant and material since the present case began when Mr. Formella was still at the Governor’s office and that office referred two fishermen’s complaints to NH DOJ, and, during the same time period, the Governor issued a Right of Entry (ROE) “waiver” to a business operating in Rye Harbor, when Mr. Marconi, in his role as Port Director, recommended against this.<sup>1</sup> Additionally, in April 2024, immediately prior to Mr. Marconi being placed on administrative leave, PDA Board members were summoned to the NH DOJ to meet with Attorney General Formella and Governor Sununu.

4. However, in light of the Court’s ruling on State’s Motion to Admit #1, the defense submits that it does not intend to call Attorney General Formella to testify in this case.

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<sup>1</sup> The Governor of New Hampshire lacks any legal authority to unilaterally modify a state contract of this kind, including a Rye Harbor ROE. The PDA nevertheless voted to approve the Governor’s purported waiver, thereby amending the terms of Rye Harbor Lobster Pound’s ROE. See [Public Board Packet 2021-06-17.pdf](#).

5. The defendant nevertheless requests Attorney General Formella remain on the witness list and reserves the right to call the Attorney General as a witness should the State's such testimony become necessary to rebut the State's evidence or inferences.

WHEREFORE, the defendant, Geno Marconi, respectfully requests this Court note his response and deny the State's request to quash the subpoena for Attorney General Formella.

DATED: October 26, 2025

Respectfully submitted,

/s/ Richard E. Samdperil

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/s/ Joseph E. Welsh

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### **CERTIFICATION OF SERVICE**

I hereby certify that a copy of the foregoing pleading has been forwarded this 26<sup>th</sup> day of October, 2025, through the New Hampshire Judicial Branch electronic case filing system (e-file) with service to registered parties, attorneys Dan Alan Jimenez and Joe Michael Finchman of the New Hampshire Attorney General's office.

/s/ Richard E. Samdperil

Richard E. Samdperil