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6 **IN THE UNITED STATES DISTRICT COURT**  
7 **FOR THE DISTRICT OF ARIZONA**  
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9 Alyssa Jones,

10 Plaintiff,

11 v.

12 Riot Hospitality Group LLC, et al.,

13 Defendants.  
14

No. CV-17-04612-PHX-GMS

**ORDER**

15  
16 Pending before the Court is Plaintiff Alyssa Jones’s Motion to Quash Rule 45  
17 Discovery. For the reasons below, the motion is denied.

18 **BACKGROUND**

19 Plaintiff filed this lawsuit in 2017. On March 2, 2021, the Court found Plaintiff and  
20 her counsel, Mr. Philip Nathanson, jointly and severally liable for fees and costs that  
21 Defendants incurred while pursuing Plaintiff’s compliance with the Court’s discovery  
22 orders. (Doc. 413.) Specifically, Plaintiff “intentionally deleted an unknowable number  
23 of messages between herself and her witnesses from the outset of the case through mid-  
24 2020,” (Doc. 485 at 22), and Mr. Nathanson refused to produce relevant evidence, (Doc.  
25 413 at 2). Because of these egregious discovery violations, the Court sanctioned Plaintiff  
26 and Mr. Nathanson and gave Defendants 21 days to submit documentation in compliance  
27 with Local Rule of Civil Procedure 54.2. (Doc. 413.) Defendants submitted this  
28 documentation on March 23, 2021. (Doc. 415.) On August 9, 2021, the Court awarded

1 the following fees and costs:

- 2 1. Plaintiff Alyssa Jones and Mr. Nathanson are jointly and severally liable  
3 for \$21,855.50 for Defendants' fees and costs incurred pursuing  
4 Plaintiff's compliance with the Court's orders between March 25, 2020,  
5 and August 17, 2020.
- 6 2. Mr. Nathanson is liable for \$12,011.00 for fees and costs incurred  
7 pursuing Plaintiff's compliance with the Court's orders between  
8 December 11, 2020 and the date of this Order.
- 9 3. Plaintiff is liable for \$35,709.00 for the costs and fees of expert K.J.  
Kuchta

10 (Doc. 433.)

11 These amounts were to be paid within 90 days of that Order. (Doc. 433.) On August  
12 25, 2022, the Court issued a final judgment dismissing Plaintiff's complaint because of her  
13 egregious discovery violations and awarded various sanctions against them. (Doc. 485.)  
14 This Order noted that the judgment for fees and costs was final. *Id.* at 26–7 (ordering that  
15 “[t]he outstanding award of fees and costs is hereby final and may be enforced through  
16 appropriate process.”)

17 Nevertheless, the Defendants failed to pay the costs and fees within 90 days of the  
18 Court's order on August 6, 2021. So, on November 17, 2022, Defendants served Plaintiff  
19 and Mr. Nathanson subpoenas seeking financial documents and information to secure  
20 payment. In response, Defendants filed the current motion to quash, alleging that they are  
21 not judgment debtors and that the requested information contains information that is  
22 subject to attorney-client privilege. Alternatively, they ask the Court “for the setting of the  
23 amount of a supersedeas bond and the timing of posting said bond” pursuant to Federal  
24 Rule of Civil Procedure 62(b). (Doc. 495 at 3.)

## 25 **DISCUSSION**

### 26 **I. Motion to Quash**

#### 27 **A. Legal Standard**

28 “On timely motion, the court for the district where compliance is required must

1 quash or modify a subpoena that: (i) fails to allow a reasonable time to comply; (ii) requires  
2 a person to comply beyond the geographical limits specified in Rule 45(c); (iii) requires  
3 disclosure of privileged or other protected matter, if no exception or waiver applies; or  
4 (iv) subjects a person to undue burden.” Fed. R. Civ. P. 45 (3)(A). Plaintiff’s motion to  
5 quash is denied, however, because she and Mr. Nathanson are judgment debtors, and she  
6 has not established that the information Defendants seek is privileged.

7 **B. Analysis**

8 As an initial matter, Plaintiff fails to explain how her argument that she and her  
9 attorney are not “judgment debtors” relates to any specific basis for granting a motion to  
10 quash. However, her argument fails under any of the bases identified in Rule 45 because  
11 she and Mr. Nathanson are “judgment debtors,” and a money judgment has been entered  
12 against them. The Court granted Defendant’s motion for the costs and fees at issue and  
13 ordered Plaintiff and Mr. Nathanson to pay them within 90 days of its August 6, 2021  
14 Order. (Doc. 433 at 8.) Still, Plaintiff suggests that “[t]he only judgment entered in this  
15 case by the Clerk under the separate document rule for judgments” did not award the cost  
16 and fees currently at issue. (Doc. 495 at 2 (citing Fed. R. Civ. P. 58).)

17 This argument fails under the plain text of Rule 58(a)(3), which states that “[e]very  
18 judgment . . . must be set out in a separate document, but a separate document is not  
19 required for an order disposing of a motion . . . for attorney’s fees under Rule 54 . . . .”  
20 When the Court awarded the costs and fees at issue, it awarded them pursuant to a Rule 54  
21 motion. (Doc. 433 at 2, 8.) Thus, no separate document was needed to render that award  
22 final, and Plaintiff and Mr. Nathanson were compelled to pay those fees within 90 days of  
23 the Court’s August 6, 2021 Order.

24 Plaintiff’s cited authority is not to the contrary. In *Envy Hawaii LLC v. Cirbin Inc.*,  
25 the court denied a motion to hold a party in contempt of court for failing to pay an amount  
26 it owed under a settlement agreement. No. CV 16-00551 ACK-RLP, 2018 WL 1004875,  
27 at \*1 (D. Haw. Feb. 5, 2018). There, the Court noted that “Plaintiff did not request that  
28 judgment be entered following the court's order.” *Id.* at \*2. However, unlike a Rule 54

1 award of attorneys' fees, amounts due under settlement agreements must be set out in a  
2 separate document to be considered "final" judgments. *See* Fed. R. Civ. P. 58(d). Thus,  
3 nothing in *Envy* suggests that there is no money judgment to enforce in this case.

4 Further, none of the requested materials are privileged under Arizona law because  
5 they are not communications. *See* A.R.S. § 12-2234 ("[I]n a civil action an attorney shall  
6 not, without the consent of his client, be examined as to any communication made by the  
7 client to him, or his advice given thereon in the course of professional employment."); *see*  
8 *also Samaritan Found. v. Goodfarb*, 176 Ariz. 497, 501 (1993). Plaintiff provides no  
9 support for her contention that "the files of clients that actually belong to the clients, not  
10 the attorney" are privileged materials under Arizona law. (Doc. 495 at 3.)

11 Thus, Plaintiff's Motion to Quash is denied.

## 12 **II. Supersedeas Bond**

13 However, Plaintiff is entitled to a supersedeas bond. *Burris v. JPMorgan Chase &*  
14 *Co., No. CV-18-03012-PHX-DWL, 2022 WL 3285441, at \*2* (D. Ariz. Aug. 11, 2022)  
15 (*quoting Matter of Combined Metals Reduction Co., 557 F.2d 179, 193* (9th Cir. 1977))  
16 ("Under [Rule 62(b)], an appellant may obtain a stay as a matter of right by posting a  
17 supersedeas bond acceptable to the court. Since no bond was posted, the grant or denial of  
18 the stays was a matter strictly within the judge's discretion."). Under Rule 62(b), "any time  
19 after judgment is entered, a party may obtain a stay by providing a bond or other security."  
20 Fed. R. Civ. P. 62(b); *see also* Fed. R. Civ. P. 62(d) ("The bond may be given upon or after  
21 filing the notice of appeal or after obtaining the order allowing the appeal. The stay takes  
22 effect when the court approves the bond."). Although the Court cannot decline to issue a  
23 stay upon receipt of a bond, it retains "discretion to set the amount of the bond or to waive  
24 the bond requirement." *Sw. Fair Hous. Council v. WG Scottsdale LLC*, No. CV-19-00180-  
25 TUC-RM, 2023 WL 183680, at \*1 (D. Ariz. Jan. 13, 2023). "To fully protect the  
26 [prevailing party] on issuance of a stay of judgment, the supersedeas bond amount must be  
27 set to take into account the additions of interest, costs of appeal, [and] damages for delay."  
28 *Id.* (*quoting United States v. Cowan, 535 F. Supp. 2d 1135, 1148* (D. Haw. 2008)) (internal

1 punctuation omitted).

2 Plaintiff has asked the Court to “proscribe the terms” of the bond but has not  
3 provided any information about expected interest, damages for delay, the costs of appeal,  
4 or Plaintiff’s capacity to satisfy the judgment against her. However, “[c]ourts in this  
5 Circuit have set supersedeas bonds at 120% percent of the amount of the final judgment,  
6 to account for interest, costs of appeal, and any damages for delay.” *Id.*; *see also United*  
7 *States v. Cowan*, 535 F. Supp. 2d 1135, 1148 (D. Haw. 2008); *Clark v. Hidden Valley Lake*  
8 *Ass’n*, No. 16-CV-02009-SI, 2018 WL 2412136, at \*5 (N.D. Cal. May 29, 2018) (setting  
9 bond at 125%); *Alday v. Raytheon Co.*, No. CV 06-32 TUC DCB, 2008 WL 11441996, at  
10 \*2 (D. Ariz. Sept. 10, 2008). Thus, the Court will do so here as well.

11 Finally, although Plaintiff asks the Court to set the timing for a supersedeas bond,  
12 Rule 62(d) indicates that the bond may be given after filing the notice of appeal or after  
13 obtaining the order allowing for appeal, both of which have occurred in this case. Thus,  
14 the bond may be given at any time.

### 15 CONCLUSION

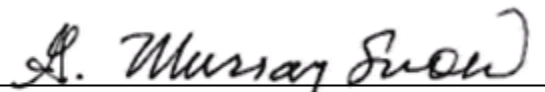
16 Accordingly,

17 **IT IS THEREFORE ORDERED** that Plaintiff’s Motion to Quash is **DENIED**.

18 **IT IS FURTHER ORDERED** that Plaintiff and Mr. Nathanson shall post a  
19 supersedeas bond in the form of a cashier’s check made payable to the Clerk of United  
20 States District Court in the amount of \$ 83,490.60 no later than **5:00 p.m. on May 31, 2023**.

21 **IT IS FURTHER ORDERED** that a stay of the judgment for the amount due will  
22 be in effect upon their posting of the bond with the Clerk of Court.

23 Dated this 23rd day of May, 2023.

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25 \_\_\_\_\_  
26 G. Murray Snow  
27 Chief United States District Judge  
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