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**BEFORE THE PRESIDING DISCIPLINARY JUDGE**

IN THE MATTER OF A MEMBER OF  
THE STATE BAR OF ARIZONA,

**DAVID S. GINGRAS,**  
Bar No. 021097,  
Respondent.

**PDJ-2022-9037**

**STATE BAR'S MOTION TO  
DISMISS AND SUPPLEMENTAL  
REQUEST FOR A PROTECTIVE  
ORDER SEALING A PORTION  
OF THE STATE BAR FILE**

[State Bar No. 21-2455]

The State Bar of Arizona, by undersigned bar counsel, hereby moves to (a) dismiss the complaint without prejudice, each party to bear their own attorney's fees, costs and expenses, and (b) supplement its earlier request for a protective order sealing a portion of the State Bar's file.

Undersigned bar counsel last Friday that a witness deemed necessary for successful prosecution of the complaint has chosen to forgo being interviewed by Respondent for personal reasons. Bar counsel believes the State Bar would likely be

unable to prove a violation of the Rules of Professional Conduct without that witness's participation in a hearing on the merits.

Based on the foregoing, the State Bar moves the Presiding Disciplinary Judge of the Supreme Court (PDJ) to enter an order dismissing the complaint without prejudice, and to order the parties to bear their own attorney's fees, costs and expenses.

Supplemental Request to Seal a Portion of the State Bar File

If the PDJ grants the State Bar's motion to dismiss, the State Bar further moves to amend its earlier request for a protective order by requesting that all of the fee agreements provided to the State Bar by Attorney Andrew Ivchenko and the names of those clients be sealed in the State Bar's file, and further moves the PDJ to find that Respondent is not entitled to receipt of those fee agreements or the identities of Attorney Ivchenko's clients because they are no longer relevant due to the dismissal of the complaint.

A proposed order is submitted herewith as Exhibit A.

**DATED** this 19<sup>th</sup> day of September, 2022.

**STATE BAR OF ARIZONA**

*James D. Lee*  
James D. Lee  
Senior Bar Counsel

Original filed with the Disciplinary Clerk of  
the Office of the Presiding Disciplinary Judge  
of the Supreme Court of Arizona  
this 19<sup>th</sup> day of September, 2022.

Copy of the foregoing emailed  
this 19<sup>th</sup> day of September, 2022, to:

The Honorable Margaret H. Downie  
Presiding Disciplinary Judge  
Supreme Court of Arizona  
1501 West Washington Street, Suite 102  
Phoenix, Arizona 85007  
Email: officepdj@courts.az.gov

Marc J. Randazza, Esq.  
Randazza Legal Group, PLLC  
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Respondent's Counsel

David Gingras, Esq.  
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Phoenix, Arizona 85044-6417  
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Respondent (co-counsel)

Copy of the foregoing hand-delivered  
this 19<sup>th</sup> day of September, 2022, to:

Lawyer Regulation Records Manager  
State Bar of Arizona  
4201 North 24<sup>th</sup> Street, Suite 100  
Phoenix, Arizona 85016-6266

by: Jackie L. Brokaw  
JDL/jlb

# **EXHIBIT A**

**BEFORE THE PRESIDING DISCIPLINARY JUDGE**

IN THE MATTER OF A MEMBER OF  
THE STATE BAR OF ARIZONA,

**DAVID S. GINGRAS,**  
Bar No. 021097,

Respondent.

**PDJ-2022-9037**

**ORDER**

[State Bar File: 21-2455]

The Presiding Disciplinary Judge of the Supreme Court of Arizona having reviewed the *State Bar's Motion to Dismiss and Supplemental Request for a Protective Order Sealing a Portion of the Record* and considered Respondent's response thereto, finds good cause to grant the State Bar's requests. Accordingly:

**IT IS ORDERED** granting the State Bar's *Motion to Dismiss and Request for Protective Order*.

**IT IS FURTHER ORDERED** dismissing the complaint without prejudice.

**IT IS FURTHER ORDERED** sealing the fee agreements that Attorney Ivchenko provided to the State Bar in this matter, as well as the names of his clients.

**IT IS FURTHER ORDERED** that Respondent is not entitled to receive copies of the fee agreements that Attorney Ivchenko provided to the State Bar or the names of his clients.

Sealed material shall be opened and viewed only by an order of the committee, the presiding disciplinary judge, a hearing panel, the board or the court for use by such body and the parties in pending proceedings, and otherwise only upon notice to and an opportunity to be heard by the parties and the witness or other person who is the subject of the information. A party aggrieved by an order relating to a request for a protective order may seek review by filing a petition for special action with the court.

**DATED** this \_\_\_\_\_ day of September, 2022.

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**Margaret H. Downie**  
**Presiding Disciplinary Judge**

Original filed this \_\_\_\_\_ day of September, 2022 with:

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Copy of the foregoing mailed/mailed  
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Respondent (co-counsel)

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by: \_\_\_\_\_