

1 David S. Gingras, CSB #218793
2 **Gingras Law Office, PLLC**
3 4802 E. Ray Road, #23-271
4 Phoenix, AZ 85044
5 Tel.: (480) 264-1400
6 David@GingrasLaw.com

7
8
9
10 Intervenor

11 **SUPERIOR COURT FOR THE STATE OF CALIFORNIA**
12 **COUNTY OF SAN FRANCISCO**

13 LAURA OWENS,

14 Petitioner,

15 v.

16 MICHAEL MARRACCINI,

17 Respondent.

Case No. FDV-18-813693

**NOTICE OF MOTION AND
MOTION TO INTERVENE;
MOTION TO STRIKE;
MOTION FOR SANCTIONS; AND
MOTION FOR DISCIPLINARY
REFERRAL TO STATE BAR**

Judge Assigned: Hon. Carolyn Gold
Hearing Date: October 21, 2025
Time: 8:30 A.M.
Dept: 405A

TO RESPONDENT AND HIS ATTORNEY:

PLEASE TAKE NOTICE that on October 21, 2025 at 8:30 A.M. or as soon thereafter as the matter may be heard in Department 405A of the above-entitled court located at 400 McAllister Street, San Francisco, CA 94102, Intervenor David S. Gingras (“Intervenor” or “Gingras”) will and hereby does move for an order imposing sanctions and other relief on Respondent’s counsel, Omar Serrato (“Mr. Serrato”) on the following grounds.

This motion is brought pursuant to Cal. Code of Civ. Proc. § 128.5 and is based on this Notice, the attached Memorandum of Points and Authorities, and such other papers, pleadings and argument as the Court may allow. Intervenor seeks the following relief against Mr. Serrato:

- 1.) An order imposing sanctions and fees on Mr. Serrato based on his making knowingly false statements to the Court and for pursuing bad faith tactics that were frivolous and solely intended to harass, in violation of CCP § 128.5;
- 2.) An order striking the Motion to Disqualify filed by Mr. Serrato on August 25, 2025 pursuant to CRC Rule 3.1322;
- 3.) An order finding Mr. Serrato’s conduct in this matter has violated the following Rules of Professional Conduct: Rule 3.1(a)(1) (prohibiting a lawyer from taking any position in litigation “without probable cause and for the purpose of harassing or maliciously injuring any person”; Rule 3.3(a)(1) (prohibiting false statements to a tribunal); Rule 4.1(a) (prohibiting false statements made to third parties); and Rule 8.4(c) (prohibiting conduct involving dishonesty, fraud, deceit, or reckless or intentional misrepresentation).
- 4.) An order referring Mr. Serrato to the State Bar of California for investigation and discipline, as appropriate;
- 5.) Any such further relief as the Court deems proper.

MEMORANUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

In his Motion to Disqualify (filed Aug. 25, 2025) Respondent's counsel, Omar Serrato lied to this Court. Specifically, in his motion, Mr. Serrato falsely avowed that: 1.) undersigned counsel continues to represent Petitioner Laura Owens ("Ms. Owens") in this case, 2.) that undersigned counsel has a current "personal conflict of interest that materially limits his ability to represent Petitioner", and 3.) that "[a]llowing Mr. Gingras to *continue as counsel* ... will prejudice Respondent's rights and undermine the integrity of these proceedings." Mot. at 3:1–2 (emphasis added).

Mr. Serrato's representations are all lies. His statements are **knowingly false.** Mr. Serrato knew his statements were false at the time they were made for one simple reason – **days before** his motion was filed, he was told, *repeatedly*, both by phone and in writing, that undersigned counsel **no longer represented Ms. Owens in this matter.** The details of that issue are explained in the declaration of counsel submitted herewith.

Why on Earth would any lawyer lie so blatantly to a Court under these circumstances? There appear to be two primary reasons. First, Mr. Serrato has some sort of bizarre personal obsession with, and hatred for, the undersigned. Indeed, over the last 12+ months, Mr. Serrato has posted multiple videos on YouTube falsely smearing, defaming, and attacking undersigned counsel. One such video contains an image that depicts Mr. Serrato **physically assaulting/choking undersigned counsel** with a caption that arrogantly and menacingly boasts: "Gingras Doesn't Want the Smoke" (available at: <https://www.youtube.com/watch?v=av17ZnQZYUI>).

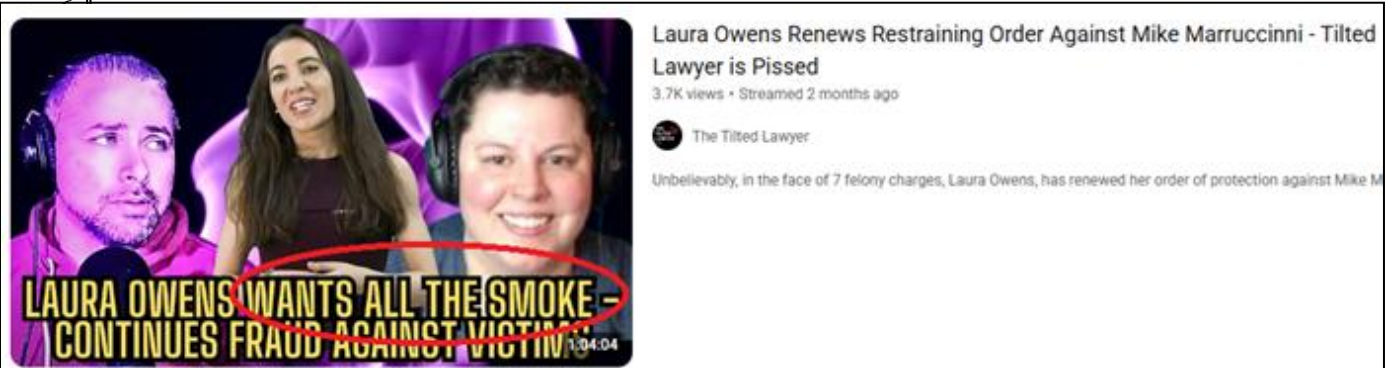


Gingras Doesn't Want the Smoke -
Turns Down Our Invitation!
2.8K views • 11 months ago

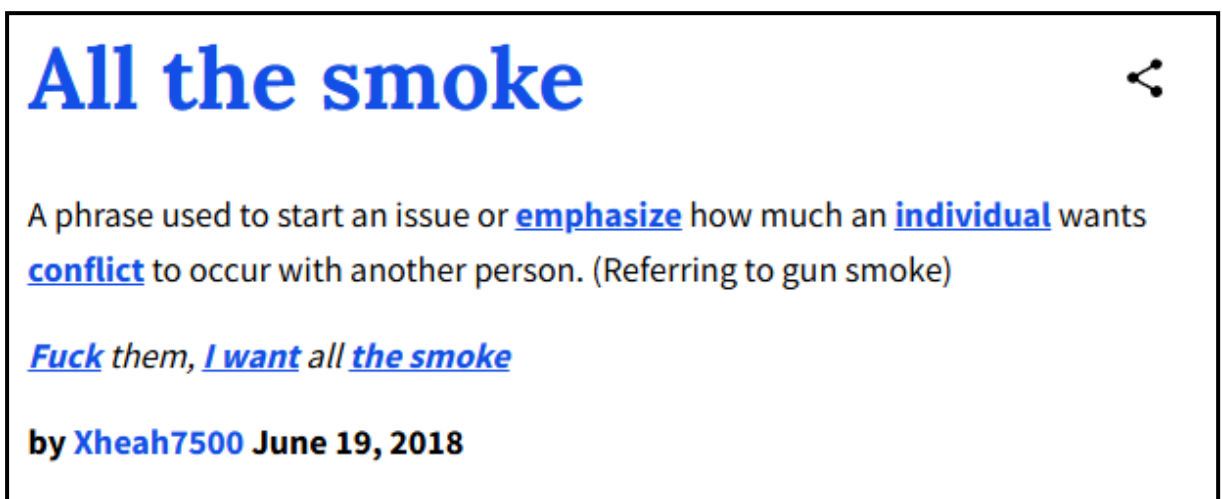
MOT
MOTION

RIKE;
EFERRAL

1 Mr. Serrato has also made similar threatening statements publicly disparaging and
2 attacking Ms. Owens in the context of discussing her actions in this case. In those public
3 comments, Mr. Serrato again used the same gang-violence inspired threat to Ms. Owens,
4 accusing her of “fraud” in this case, and suggesting that she is “wants all the smoke”.¹
5 See <https://www.youtube.com/watch?v=ntsssrulkQE>



12 If the Court is not familiar with the term (and hopefully it is not), asking a person
13 if they “**want smoke**” is used as a threat of physical violence (as confirmed by the image
14 of Mr. Serrato locking undersigned counsel in a choke hold). The term carries an implied
15 reference to **gun violence**; i.e., “**gun smoke**”.



16 See <https://www.urbandictionary.com/define.php?term=all%20the%20smoke>

1 In any context, Mr. Serrato's threatening words and conduct would be
2 inappropriate. In the context of this DVRO case, it is inexcusable in the extreme.

3 This case involves a domestic violence restraining order against Respondent,
4 Michael Marraccini (an order he initially stipulated to). This Court previously found Mr.
5 Marraccini violated that order, resulting in a 5-year extension. Shortly before the
6 extended order was due to expire, Mr. Marraccini violated it *again*, multiple times, by
7 releasing 2,500 pages of private text messages he exchanged with Ms. Owens, and by
8 traveling to Arizona and coming within 300 feet of Ms. Owens, despite clear and
9 unequivocal warnings such interstate travel constituted a serious federal crime.

10 As a victim of this unlawful and criminal conduct, Ms. Owens has come to this
11 Court asking for help a third time. In a clear attempt to silence and intimidate her, Mr.
12 Marraccini's counsel, Mr. Serrato, responded by posting videos on YouTube threatening
13 Ms. Owens and her (now former) counsel with physical violence. Compounding that
14 misconduct, Mr. Serrato blatantly lied to this Court about the status of undersigned
15 counsel "continuing" to represent Ms. Owens (a statement he knew was false at the time
16 it was made). He then put those lies into a pleading which he knew would be transformed
17 into multiple YouTube videos by his friends, resulting in Mr. Serrato's false attacks being
18 placed on the Internet permanently. This conduct by Mr. Serrato should not make this
19 Court angry – it should make the Court furiously.

20 This leads to the second apparent reason for Mr. Serrato's dishonesty. Although he
21 is a licensed attorney, Mr. Serrato's primary focus appears to be making money from his
22 YouTube channel where he refers to himself as "The Tilted Lawyer". See
23 <https://www.youtube.com/@thetiltedlawyer>. As this Court may or may not be aware,
24 creating and posting content on YouTube can be extremely lucrative, but there is just one
25 problem – creating content is *hard*, because it requires new material, often on a daily
26 basis, leading to an insatiable desire for new content, at any cost. Also, to gain the most
27 views (and thus earn the most money), each new video needs to be eye-catching,
28 scandalous, and provocative.

1 Seeking social media money and stardom, Mr. Serrato chose to file an utterly
2 groundless, frivolous, and needless motion as a way of creating new YouTube content.
3 Of course, posting a video about his motion on his own channel would be too sleazy
4 (even for Mr. Serrato). Instead, Mr. Serrato filed his pleading and waited for his friends
5 to make videos laughing about the “scathing” allegations contained in the motion. That
6 plan worked exactly as Mr. Serrato intended – shortly after the Motion to Disqualify was
7 filed, Mr. Serrato’s friends created multiple videos reciting every false statement in Mr.
8 Serrato’s motion. *See, e.g.,* <https://www.youtube.com/watch?v=X2-RIYVY4ww>

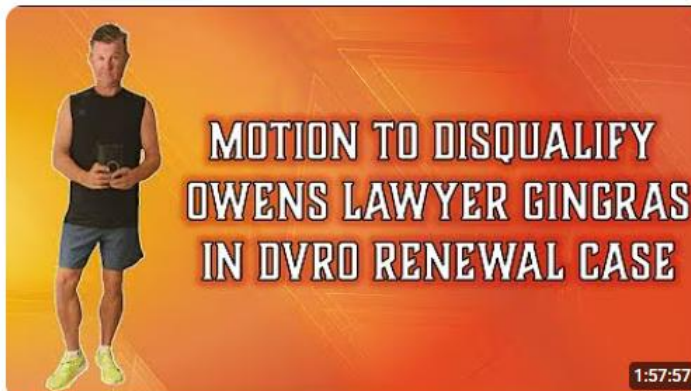


Tilted Lawyer Files Motion to Disqualify Laura Owens' Attorney David Gingras

7.7K views • Streamed 10 days ago

The Court of Random Opinion

Omar Serrato (Tilted Lawyer) has filed a motion to disqualify David Gingras. Serrato represents Mike Marracini as serial fraud ...



Tilted Lawyer Motions to Disqualify Owens Attorney Gingras

262 views • 3 days ago

LoudLilDucky

Laura Owens lawyer David Gingras finds himself intertwined as a witness and trying to be an attorney at the same time in a DVRO ...

New



Motion to disqualify David Gingras as Serial Fraud Laura Owens CA DVRO case heats up!

877 views • 12 days ago

Echoes from the Tabernacle

In this episode we read the motion and filing by Tilted Lawyer, Omar Serrato representing Mike Marracini against indicted serial ...

**MOTION TO INTERVENE; MOTION TO STRIKE;
MOTION FOR SANCTIONS & DISCIPLINARY REFERRAL**

1 By bringing a groundless motion, based on knowingly false statements, made
2 solely for purposes of harassment (and YouTube fame), Mr. Serrato violated Cal. Code
3 Civ. P. § 128.5(a). As a result, this Court should impose substantial financial sanctions to
4 deter similar future conduct. This should include, at minimum, a financial penalty
5 payable to the Clerk of Court for Mr. Serrato's waste of this Court's time and resources,
6 and an award of fees, costs, and expenses incurred in bringing this motion.

7 Mr. Serrato's conduct also violated multiple rules of professional conduct. The
8 violations include Rule 3.1(a)(1) (prohibiting a lawyer from taking any position in
9 litigation "without probable cause and for the purpose of harassing or maliciously
10 injuring any person"; Rule 3.3(a)(1) (prohibiting false statements to a tribunal); Rule
11 4.1(a) (prohibiting false statements made to third parties); and Rule 8.4(c) (prohibiting
12 conduct involving dishonesty, fraud, deceit, or reckless or intentional misrepresentation).
13 The facts clearly show Mr. Serrato intentionally violated each of those rules.

14 Accordingly, in addition to any other sanctions this Court may impose, it should
15 also strike the Motion to Disqualify pursuant to CRC Rule 3.1322, and find Mr. Serrato
16 made knowingly false statements to the Court. The Court should find Mr. Serrato took
17 positions without probable cause and solely for purposes of harassment, and that Mr.
18 Serrato knew his statements were false at the time they were made. Based on those
19 findings, the Court should refer this matter to the State Bar of California for investigation
20 and imposition of discipline, if appropriate.

21 II. SUMMARY OF FACTS

22 Mr. Serrato's misconduct aside, the facts of this case are simple. In 2018, Ms.
23 Owens obtained a domestic violence restraining order in this Court against Respondent
24 Michael Marraccini. As the docket reflects, Mr. Marraccini stipulated to the entry of the
25 original order (an order which Mr. Serrato now claims was obtained "by fraud").

26 Two years later, in 2020, Ms. Owens accused Ms. Marraccini of violating the
27 original order. This resulted in the Court renewing the order for five years, with an
28 expiration date of July 10, 2025.

On July 9, 2025, Ms. Owens filed a request to renew the order against Mr. Marraccini based on two different events. First, Ms. Owens alleges that in mid-2024, Mr. Marraccini released 2,500 pages of private text messages exchanged between the parties in 2016–18 while they were dating. This fact, standing alone, would be sufficient to find a violation of the DVRO. *See In re Marriage of Nadkarni*, 173 Cal. App. 4th 1483, 1490, 93 Cal. Rptr. 3d 723, 727–28 (Cal.App. 6th 2009) (finding wife properly alleged abuse where her ex-husband accessed her private emails without consent and released contents to third parties, and explaining, husband’s “alleged conduct of viewing [wife’s] private email, learning her social schedule, and communicating this information to third persons ... could constitute indirect and threatening contact ... and thus abuse within the meaning of section 6320...” because “the plain meaning of the phrase ‘disturbing the peace of the other party’ in section 6320 may be properly understood as conduct that destroys the mental or emotional calm of the other party.”) (emphasis added).

Second, Ms. Owens alleges Mr. Marraccini violated the DVRO’s proximity restriction by traveling to Arizona in June 2024 and by coming within less than 300 feet of her outside a courthouse in Phoenix. Ms. Owens alleges that by engaging in interstate travel with the intent to violate this Court’s order, Mr. Marraccini both violated the order and committed a criminal violation of the Violence Against Women Act, 18 U.S.C. § 2262. Based on those allegations, Ms. Owens has asked this Court to make the DVRO permanent, and to refer Mr. Marraccini for potential criminal prosecution.

Ms. Owens’ request to renew the DVRO was filed *pro se*, but it included a declaration from undersigned counsel. At that time, the undersigned’s declaration was solely submitted in his capacity as a *witness*, not as an attorney representing Ms. Owens.

That declaration explained undersigned counsel previously represented Ms. Owens in a paternity case in Arizona styled *Owens v. Echard*. The declaration explained during that proceeding, Mr. Marraccini was initially disclosed as a *potential* trial witness, but Mr. Marraccini’s counsel (Randy Sue Pollack) later indicated, in writing, that Mr. Marraccini would *not* appear at trial as a witness.

1 Despite this, shortly before the June 10, 2024 trial in *Owens v. Echard*, Mr.
2 Marraccini publicly released 2,500 pages of text messages exchanged with Ms. Owens
3 while the parties were dating. This was done *without* a subpoena or court order and
4 *without* any formal discovery request in the *Owens v. Echard* litigation. Mr. Marraccini
5 simply leaked this private information which resulted in thousands of his private
6 messages with Ms. Owens being posted on the Internet where they remain to this day.

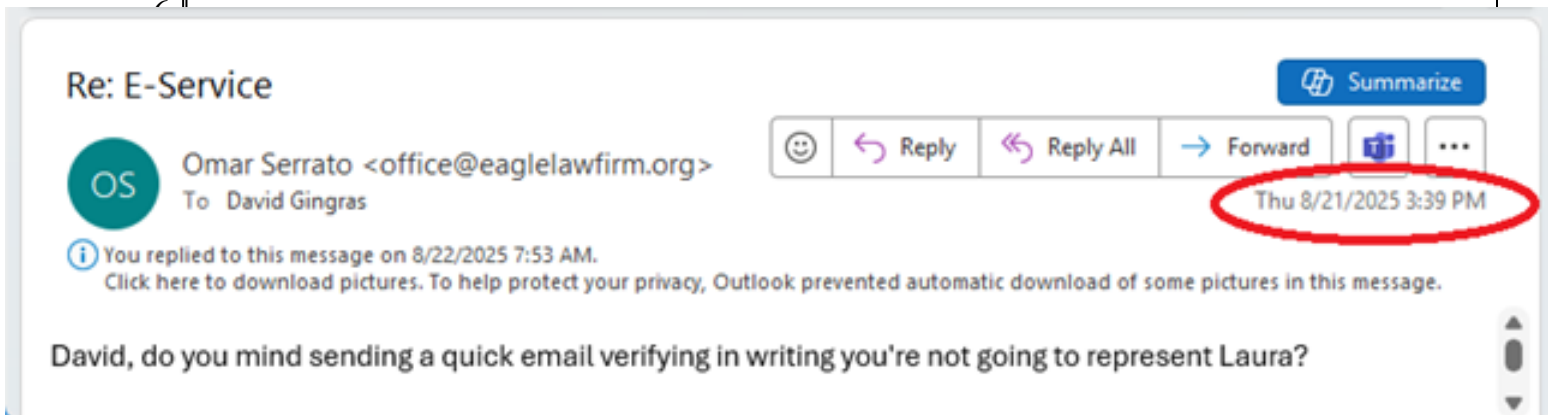
7 In addition, the declaration of undersigned counsel explained that on June 10,
8 2024, Mr. Marraccini was observed violating this Court's DVRO by coming less than
9 300 feet away from Ms. Owens in the parking lot outside the Maricopa County Superior
10 Court in Phoenix. This resulted in the undersigned contacting law enforcement to request
11 enforcement of the DVRO.

12 Because undersigned counsel was a witness to these events, a preliminary decision
13 was made *not* to represent Ms. Owens in this matter, even though such representation
14 would clearly be permissible under Professional Conduct Rule 3.7(a)(3) (expressly
15 allowing a lawyer to act as both a witness and advocate as long as: "the lawyer has
16 obtained informed written consent from the client"). Despite this, after Ms. Owens
17 learned that Mr. Marraccini retained counsel (Mr. Serrato), she asked the undersigned to
18 represent her on a limited-scope basis for the purposes of the Zoom hearing held in this
19 matter on August 15, 2025. The undersigned appeared briefly at that hearing, but has
20 never filed a Notice of Appearance in this case and is not Ms. Owens' counsel of record.

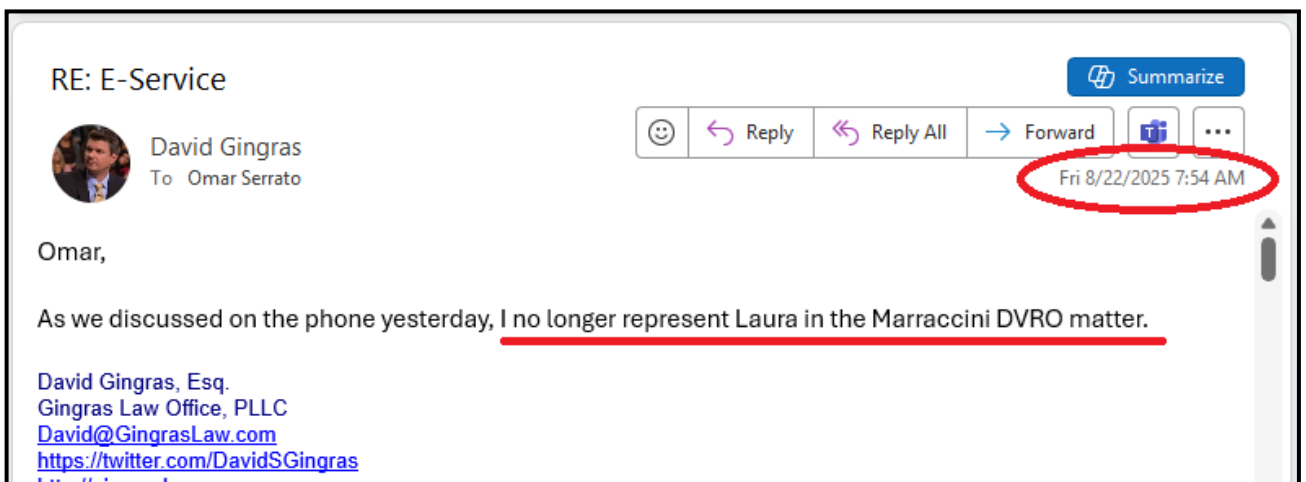
21 Shortly after that initial hearing, several lengthy discussions occurred between Mr.
22 Serrato and the undersigned. This included a phone call on August 18, 2025 which lasted
23 66 minutes. During that call, Mr. Serrato tried to convince undersigned counsel *not* to
24 represent Ms. Owens in this matter for various technical reasons.

25 Following that discussion, undersigned counsel spoke with Ms. Owens about the
26 issues. During that conversation, a decision was made that undersigned counsel would
27 *not* continue to represent Ms. Owens in this case. The reasons underlying that decision
28 are privileged and protected by Prof. Conduct Rule 1.6 and Bus. & Prof. Code § 6068.

1 The termination of the representation of Ms. Owens was reported to Mr. Serrato
2 by phone on August 21, 2025 in a call which lasted 16 minutes. During that second call,
3 undersigned counsel told Mr. Serrato unequivocally that he no longer represented Ms.
4 Owens, and that he would not appear as her counsel in any further proceedings. Later that
5 same day, Mr. Serrato sent an email requesting verification of this point.



13 Later that same day, undersigned counsel responded to Mr. Serrato via email and
14 stated: "Yes, this confirms as we discussed on the phone today – I am not going to
15 represent Laura any further in the Marraccini matter in San Francisco." The next day
16 (because it was unclear whether the first message was successfully sent), a second,
17 shorter follow-up message was sent repeating the same thing – "As we discussed on the
18 phone yesterday, I no longer represent Laura in the Marraccini DVRO matter." (emphasis
19 added).
20



1 Mr. Serrato responded to the second message on August 22, 2025, confirming he
2 received it.



9 Despite knowing undersigned counsel no longer represented Ms. Owens in this
10 matter, and despite receiving written confirmation of that fact on August 22, 2025, just
11 three days later, on August 25, 2025, Mr. Serrato filed a 15-page motion supported by
12 more than 100 pages of exhibits seeking to “*disqualify*” undersigned counsel in this case.
13 In his motion, Mr. Serrato falsely represented to the Court that undersigned counsel
14 continued to represent Ms. Owens – a fact which Mr. Serrato knew was false at the time
15 it was made. Indeed, Mr. Serrato clearly knew the entire basis for his motion (that
16 undersigned counsel continued to represent Ms. Owens) was false.

17 Based on these facts, the undersigned requests leave of Court to intervene in this
18 matter for the limited purpose of seeking sanctions against Mr. Serrato. In addition, the
19 undersigned seeks an award of fees and costs against Mr. Serrato, and requests that this
20 Court refer Mr. Serrato to the State Bar of California for investigation and discipline.

21 III. DISCUSSION

22 a. Leave To Intervene Should Be Granted

23 To begin, despite having briefly appeared as Ms. Owens’ counsel at a single short
24 hearing, the undersigned is not a party to this matter. As a non-party, the undersigned
25 arguably lacks standing to seek any relief from the Court, including sanctions. *See, e.g.,*
26 *Webb v. Webb*, 12 Cal. App. 5th 876, 882, 219 Cal. Rptr. 3d 785, 790 (Cal.App. 2nd 2017)
27 (providing courts may not award sanctions to non-parties, and explaining in analogous
28 circumstances, “only a party may move for an award of sanctions”)

1 For that technical reason, leave to intervene is sought pursuant to CCP § 387 for
2 the limited purpose of seeking sanctions against Mr. Serrato. Under that provision,
3 “The court may, upon timely application, permit a nonparty to intervene in the action or
4 proceeding if the person has an interest in the matter in litigation, or in the success of
5 either of the parties, or an interest against both.” CCP § 387(d)(2).

6 Permissive intervention under CCP § 387 is appropriate if: “(1) the proper
7 procedures have been followed; (2) the nonparty has a direct and immediate interest in
8 the action; (3) the intervention will not enlarge the issues in the litigation; and (4) the
9 reasons for the intervention outweigh any opposition by the parties presently in the
10 action.” *Carlsbad Police Officers Ass’n v. City of Carlsbad*, 49 Cal.App.5th 135, 48, 262
11 Cal.Rptr.3d 646, 657 (Cal.App.4th 2020) (quoting *Reliance Ins. Co. v. Superior Court*, 84
12 Cal.App.4th 383, 386, 100 Cal.Rptr.2d 807 (Cal.App.6th 2000)).

13 Here, leave to intervene is requested solely for the limited purpose of seeking
14 sanctions against Mr. Serrato based on his outrageous, unlawful, and unethical
15 misconduct. This request will not in any way expand or enlarge the other merit-based
16 issues in the litigation; indeed, the request for sanctions is entirely unrelated to the merits
17 of this proceeding.

18 The sole question raised by this motion is whether Mr. Serrato engaged in
19 misconduct sufficient to support an award of sanctions. Resolving that simple question
20 will not affect any other aspect of the dispute between Ms. Owens and Mr. Marraccini.
21 Accordingly, leave to intervene should be granted for this limited purpose (assuming the
22 Court agrees relief cannot be granted to a non-party).

23 **b. Mr. Serrato’s Motion to Disqualify Violated CCP § 128.5**

24 As the Court is aware, CCP § 128.5(a) provides:

25 A trial court may order a party, the party's attorney, or both, to pay the
26 reasonable expenses, including attorney's fees, incurred by another party as
27 a result of actions or tactics, made in bad faith, that are frivolous or solely
28 intended to cause unnecessary delay.

1 For the reasons explained above, Mr. Serrato's Motion to Disqualify was
2 objectively frivolous and made in bad faith. At the time the motion was filed, Mr. Serrato
3 knew that the attorney-client relationship between the undersigned and Ms. Owens had
4 ended and that the undersigned avowed that he would *not* appear any further in this
5 matter as Ms. Owens' counsel. Knowing this, there was no legitimate reason for Mr.
6 Serrato to ask this Court to "disqualify" Ms. Owens' counsel (who was no longer her
7 counsel).

8 Nevertheless, Mr. Serrato falsely represented to this Court that the attorney-client
9 relationship was continuous and ongoing, arguing relief was required to "eliminate a
10 clear conflict of interest" — a conflict which Mr. Serrato knew did not exist. The sole
11 basis for the alleged conflict was the concurrent role of the undersigned as both Ms.
12 Owens' counsel and as a witness, but Mr. Serrato knew no such conflict existed because
13 he knew the undersigned no longer represented Ms. Owens at the time the
14 disqualification motion was filed. Mr. Serrato simply lied about this fact to the Court for
15 the purpose of creating a false, non-existent basis for him to file a disqualification motion
16 that falsely accused the undersigned of professional misconduct.

IV. Conclusion

For these reasons, Respondent Mike Marraccini respectfully asks the Court to disqualify
David Gingras, Esq. from representing Petitioner Laura Owens in this DVRO renewal.

Disqualification is necessary to eliminate a clear conflict of interest, enforce the advocate-
witness rule, and preserve the fairness of these proceedings. If needed, the Court may briefly
continue the hearing to allow Petitioner to retain new counsel, ensuring the matter is resolved
on the merits without ethical compromise.

By removing Mr. Gingras, the Court affirms that justice must not be clouded by attorney
conflicts or dual roles, thereby safeguarding both parties' rights and the integrity of the
tribunal.

25 This Court should *never* accept intentional dishonesty from any lawyer appearing
26 before it. As officers of the Court, attorneys may *never* engage in deliberate dishonesty
27 towards the tribunal. Because Mr. Serrato broke that most inviolable rule, this Court must
28 impose significant consequences to deter any future misconduct.

1 **c. The Safe Harbor Provision of CCP § 128.5 Does Not Apply**

2 When a party or lawyer violates CCP § 128.5, this does not *always* support an
3 automatic award of sanctions. Rather, like its federal civil counterpart (Fed. R. Civ. P.
4 11), CCP § 128.5 contains a “safe harbor”. In most cases, this safe harbor precludes an
5 award of sanctions unless the violator (Mr. Serrato) is served with a draft Motion for
6 Sanctions and an opportunity to fix the violation within 21 days. *See* CCP §
7 128.5(f)(1)(B). That has not occurred here, but this is no barrier to sanctions.

8 This is so because the safe harbor provision does not apply in any case where the
9 violation causes harm which could not be cured by withdrawing the offending pleading
10 or tactic. Specifically, the rule is clear – the safe harbor only applies “**If** the alleged action
11 or tactic is the making ... of a written motion ... **that can be withdrawn or**
12 **appropriately corrected**” CCP § 128.5(f)(1)(B) (emphasis added). In other words,
13 IF the violation arises from a pleading or tactic that *cannot* be corrected (because the
14 violation has already caused harm which would not be cured by withdrawal of the
15 pleading), then the violation is “uncurable”. In that case, the safe harbor does not apply,
16 and sanctions can be imposed without the 21-day waiting period.

17 For instance, in *Marriage of Sahafzadeh-Taeb & Taeb*, 39 Cal.App.5th 124
18 (Cal.App. 1st 2019), the Court of Appeal affirmed an award of sanctions under CCP §
19 128.5 despite the fact the violator was not given any chance to correct the violation
20 within the safe harbor period. This result was based on the fact that the violation arose
21 from false statements made by counsel to the court.

22 The Court of Appeal held the harm caused by the lawyer’s false statements had
23 already occurred and was incurable, thus the safe harbor did not apply; “given the nature
24 of the conduct on which the sanctions were based—Trigger’s misrepresentation to the
25 court that she was ready to proceed to trial, when she was, in fact, not ready, her failure to
26 ever correct the court’s misapprehension as to her readiness, and her delay in seeking a
27 continuance until after the case was called for trial—the ‘safe harbor’ provisions are not
28 applicable.” 39 Cal.App.5th at 147 (emphasis added).

1 Similarly, in *Shenefield v. Shenefield*, 75 Cal.App.5th 619, 290 Cal.Rptr.3d 641
2 (Cal. App. 4th 2022), the Court affirmed an award of sanctions under the analogous
3 provisions of CCP § 128.7 without applying the safe harbor period. In *Shenefield*, an
4 attorney was accused of violating Family Code § 3111 by publicly releasing information
5 contained in a court-order psychological evaluation. Based on that misconduct, the trial
6 court sanctioned the lawyer under CCP § 128.7, even though the lawyer was not provided
7 a safe harbor opportunity to correct the violation.

8 The *Shenefield* Court held the 21-day safe harbor period of CCP § 128.7(c)(1) did
9 not apply because the lawyer’s conduct caused harm which could not be corrected. In
10 other words, because the harm (disclosure of a confidential record) already occurred,
11 there was no point providing a safe harbor for the lawyer to “correct” the misconduct. On
12 that issue, the Court explained: “We note, too, that a safe harbor provision would not be
13 appropriate here because the harm Family Code section 3111 seeks to prevent is not the
14 reduction of meritless litigation, which Code of Civil Procedure section 128.7 seeks to
15 avoid Providing an attorney with the opportunity to retract a statement within a
16 predetermined time does not avoid the harm of disclosure” *Shenefield*, 75 Cal.App.5th
17 at 635–36.

18 The same logic applies here. To be sure, Mr. Serrato violated both CCP §§ 128.5
19 and 128.7 by filing a pleading that contained false and frivolous statements, in bad faith,
20 and for improper purposes. But Mr. Serrato’s misconduct is not limited to *only* filing a
21 frivolous pleading, and the harm he caused will not be eliminated or reduced by allowing
22 him to withdraw the Motion to Disqualify (that motion was moot before it was filed).

23 This is so because Mr. Serrato’s misconduct also includes making threats of
24 violence against Ms. Owens and the undersigned, and filing a frivolous pleading
25 containing false and defamatory statements attacking the undersigned which he knew
26 would be turned into lengthy YouTube videos by his friends (which is exactly what
27 happened). Mr. Serrato’s scheme intentionally caused the permanent online distribution
28 of the false statements in the Motion to Disqualify.

1 This misconduct and the resulting damage it caused is impossible to remedy
2 through a safe harbor correction. This is so because this Court cannot order third party
3 websites like YouTube to remove content, even when the material is entirely false. *See*
4 *Hassell v. Bird*, 5 Cal.5th 522 (Cal. 2018) (explaining federal law precludes California
5 state courts from ordering the removal of online content).

6 In this way, this case is closely analogous to *Shenefield*. The damage caused by
7 Mr. Serrato’s misconduct has already occurred. That harm is irreparable. It cannot be
8 cured by the after-the-fact withdrawal of his motion since this would have no impact on
9 the lies that have already been republished and spread in other venues, including
10 YouTube. Because the misconduct and the damage it caused cannot be cured by allowing
11 Mr. Serrato to withdraw his motion, the safe harbor provision does not apply.

12 **d. Disciplinary Referral To The State Bar Is Appropriate**

13 In addition to imposing economic sanctions on Mr. Serrato, this Court should go
14 further. The Court also make specific factual findings that Mr. Serrato has engaged in
15 intentional dishonesty by filing a pleading which he knew contained false statements. The
16 Court should separately conclude that Mr. Serrato’s bizarre and threatening online posts
17 and attacks against Ms. Owens constitute a separate basis for discipline.

18 Mr. Serrato’s actions in this case closely mirror those which resulted in the recent
19 disbarment of a Florida lawyer in *Florida Bar v. Leigh*, 405 So.3d 347 (Fla. March 13,
20 2025). In that case, like here, the lawyer posted a series of threatening online messages
21 attacking the opposing party and counsel. Among other things, the lawyer “posted a
22 picture of a tommy gun being fired by a movie character from The Mask with the
23 message: “Me the next time im [sic] in front of the #Liverpool back line!! YOU GUYS
24 SUCK!!!” *Leigh*, 405 So.3d at 353. Based on that conduct, among other things, the
25 Florida Supreme Court ordered the attorney disbarred.

26 Here, especially in light of recent events such as the public execution of
27 conservative commentator Charlie Kirk in Utah, threats of violence, even if made
28 jokingly, are completely and totally unacceptable. Mr. Serrato’s threats to “bring the

[gun] smoke” (made to both Ms. Owens the undersigned) may appear funny to him, but they are absolutely no joking matter, especially when Mr. Serrato has *not* only extended threatening words; he also took the time to create a childish image that shows him with bulging, muscular arms holding the undersigned in a choke hold. Ha ha ha.



Mr. Serrato’s conduct is not funny. It is illegal. It is unprofessional. And it is wholly inappropriate for any officer of this Court under any circumstances. That is doubly true given the context of this case – involving a *domestic violence restraining order*. Even worse, this appears to reflect a pattern of misconduct as this is not the first time Mr. Serrato has been accused of lying to a court. *See Villegas v. Villanueva*, 2023 Cal. Super. LEXIS 67749 (Riverside Superior Court Case CVRI2204685; May 25, 2023) (discussing allegation that “Defendant and/or her counsel [Mr. Serrato] have made intentionally false statements in support of their motion.”)

IV. CONCLUSION

For the foregoing reasons, Intervenor respectfully requests the Court grant the relief requested above.

DATED September 12, 2025.


GINGRAS LAW OFFICE, PLLC
David S. Gingras
Intervenor

1 **PROOF OF SERVICE**

2 At the time of service I was over 18 years of age and not a party to this action. My business
3 address is 4802 E. Ray Road, #23-271, Phoenix, AZ 85044.

4 On September 12, 2025, I served the following documents described as NOTICE OF
5 MOTION AND MOTION TO INTERVENE; MOTION TO STRIKE; MOTION FOR
6 SANCTIONS; AND MOTION FOR DISCIPLINARY REFERRAL TO STATE BAR on the
persons listed below:

7 **SEE ATTACHED LIST**

- 8 ☒ **By United States mail:** I enclosed the documents in a sealed envelope or package
9 addressed to the persons at the addresses listed above and placed the envelope for
10 collection and mailing, following our ordinary business practices. I am readily familiar
11 with this business's practice for collecting and processing correspondence for mailing.
12 On the same day that correspondence is placed for collection and mailing, it is deposited
in the ordinary course of business with the United States Postal Service, in a sealed
envelope with postage fully prepaid. I am a resident or employed in the county where
the mailing occurred. The envelope or package was placed in the mail at Phoenix,
Arizona.
- 13 ☐ **By overnight delivery:** I enclosed the documents in an envelope or package provided
14 by an overnight delivery carrier and addressed to the persons at the addresses listed
15 above. I placed the envelope or package for collection and overnight delivery at an
office or a regularly utilized drop box of the overnight delivery carrier.
- 16 ☐ **By messenger service:** I served the documents by placing them in an envelope or
17 package addressed to the persons at the addresses listed above and providing them to a
professional messenger service for service.
- 18 ☐ **By fax transmission:** Based on an agreement of the parties to accept service by fax
19 transmission, I faxed the documents to the persons at the fax numbers listed above. No
20 error was reported by the fax machine that I used. A copy of the record of the fax
transmission, which I printed out, is attached.
- 21 ☐ **By e-mail or electronic transmission:** Based on a court order or an agreement of the
22 parties to accept service by e-mail or electronic transmission, I caused the documents to
23 be sent to the persons at the e-mail addresses listed above. I did not receive, within a
24 reasonable time after the transmission, any electronic message or other indication that the
transmission was unsuccessful.

25 I declare under penalty of perjury of the laws of the State of Arizona that the foregoing is
26 true and correct. Executed on September 12, 2025, at Phoenix, Arizona.

27 

SERVICE LIST

Laura Owens
laura@lauramichelleowens.com
Petitioner *In Pro Se*

Omar Serrato, Esq.
THE EAGLE LAW FIRM
320 North East Street, Suite 206
San Bernadino, CA 92401
Attorney for Respondent Michael Marraccini