

**BEFORE THE ATTORNEY DISCIPLINE
PROBABLE CAUSE COMMITTEE
OF THE SUPREME COURT OF ARIZONA**

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

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

Respondent.

No. 21-2455

**ORDER OF ADMONITION, AND
COSTS**

The Attorney Discipline Probable Cause Committee of the Supreme Court of Arizona ("Committee") reviewed this matter on March 11, 2022, pursuant to Rules 50 and 55, Ariz. R. Sup. Ct., for consideration of the State Bar's Report of Investigation and Recommendation and Respondent's Response.

By a vote of 7-0-2¹, the Committee finds probable cause exists that Respondent violated the following Rules of the Supreme Court of Arizona: Rule 42, ER 4.2, 4.4, and 8.4(a). Respondent is admonished for violating ERs 4.2, 4.4, and 8.4(a) in this matter for communicating about the subject of the representation with a party without the consent of their counsel to do so. Under limited circumstances, it can be permissible for an attorney to provide input to their client regarding a settlement proposal that the client can provide directly to the opposing party when the parties are at an impasse or when the parties clearly wish to discuss settlement, without involving the opposing party's counsel. However, in this case, Respondent went beyond permissible conduct by drafting a settlement offer in its entirety that Respondent suggested his client make available to the plaintiffs. The offer required the plaintiffs to produce confidential attorney-client communications and to agree to

¹ Committee members Charles Muchmore and JoJene Mills did not participate in this matter.

potentially file a bar complaint against their counsel. The offer did not include encouragement for the opposing party to seek counsel prior to consideration or acceptance. Communications between Respondent and his client also suggest that the purpose of providing the offer was improper. Had an opposing plaintiff ultimately accepted the offer, it may have resulted in an enforceable obligation and/or disclosure of confidential information which would not have been ethically obtained under legal precedent relevant to these circumstances.

IT IS THEREFORE ORDERED issuing an Order of Admonition for Respondent's conduct pursuant to Rules 55(c)(1)(D) and 60(a)(4), Ariz. R. Sup. Ct.

IT IS FURTHER ORDERED, pursuant to Rule 60(b), Ariz. R. Sup. Ct., that Respondent shall pay the costs and expenses of these proceedings, as set forth in the attached Statement of Costs and Expenses, within thirty (30) days from the date of service of this Order.

PURSUANT to Rules 60(a)(4) and 70(a)(2), Ariz. R. Sup. Ct., this order will be entered in the Respondent's permanent record at the State Bar and is not confidential. Pursuant to Rule 48(k)(3), Ariz. R. Sup. Ct., it may be considered by the Attorney Discipline Probable Cause Committee, the Presiding Disciplinary Judge, a Hearing Panel, or the Supreme Court in recommending or imposing discipline in a subsequent disciplinary proceeding against Respondent.

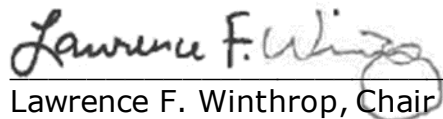
NOTICE OF RIGHT

Parties may not file motions for reconsideration of this Order.

PURSUANT to Rule 55(c)(4)(B), Ariz. R. Sup. Ct., within ten (10) days of service of this Order, Respondent has the right to demand that a formal proceeding be instituted and issuance of an Order to Vacate this Order of Admonition, whereupon this

Order will be vacated and the matter disposed of in the same manner instituted before the Presiding Disciplinary Judge. This demand shall be filed with the Attorney Disciplinary Probable Cause Committee of the Supreme Court of Arizona, 1501 W. Washington, Suite 104, Phoenix, AZ 85007-3231 with a copy to the State Bar of Arizona. The demand must comply with Rule ARCAP 8(c).

DATED this 23 day of March, 2022.

A handwritten signature in dark ink, appearing to read "Lawrence F. Winthrop", is written over a horizontal line.

Lawrence F. Winthrop, Chair
Judge (ret.)
Attorney Discipline Probable Cause
Committee of the Supreme Court

Original filed this 23 day
of March, 2022, with:

Lawyer Regulation Records Manager
State Bar of Arizona
4201 N. 24th St., Suite 100
Phoenix, Arizona 85016-6266

Copy emailed this _____ day
of March, 2022, to:

David S. Gingras
Gingras Law Office, PLLC
4802 E Ray Rd Ste 23-271
Phoenix, AZ 85044-6417
Email: david@gingraslaw.com
Respondent

Andrew Ivchenko
4960 S Gilbert Rd Ste 1-226
Chandler, AZ 85249-6012
Email: aivchenkopllc@gmail.com
Complainant

Copy emailed this _____ day

of March, 2022, to:

Attorney Discipline Probable Cause Committee
Of the Supreme Court of Arizona
1501 West Washington Street, Suite 104
Phoenix, Arizona 85007
E-mail: ProbableCauseComm@courts.az.gov

Lawyer Regulation Records Manager
State Bar of Arizona
4201 N. 24th St., Suite 100
Phoenix, Arizona 85016-6266
E-mail: LRO@staff.azbar.org

By: _____

Statement of Costs and Expenses

In the Matter of a Member of the State Bar of Arizona
David S. Gingras, Bar No. 021097, Respondent

File No. 21-2455

Administrative Expenses

The Supreme Court of Arizona has adopted a schedule of administrative expenses to be assessed in lawyer discipline. If the number of charges/complainants exceeds five, the assessment for the general administrative expenses shall increase by 20% for each additional charge/complainant where a violation is admitted or proven.

Factors considered in the administrative expense are time expended by staff bar counsel, paralegal, secretaries, typists, file clerks and messenger; and normal postage charges, telephone costs, office supplies and all similar factors generally attributed to office overhead. As a matter of course, administrative costs will increase based on the length of time it takes a matter to proceed through the adjudication process.

General Administrative Expenses for above-numbered proceedings

\$ 600.00

Additional costs incurred by the State Bar of Arizona in the processing of this disciplinary matter, and not included in administrative expenses, are itemized below.

Staff Investigator/Miscellaneous Charges

Total for staff investigator charges \$ 0.00

TOTAL COSTS AND EXPENSES INCURRED \$ 600.00