Clerk of the Superior Court
*** Electronically Filed ***
C. Diaz, Deputy
5/10/2024 2:49:23 PM
Filing ID 17801839

David S. Gingras, #021097
Gingras Law Office, PLLC
4802 E Ray Road, #23-271
Phoenix, AZ 85044
Tel.: (480) 264-1400
Fax: (480) 248-3196
David@GingrasLaw.com

Attorney for Petitioner
Laura Owens

MARICOPA COUNTY SUPERIOR COURT

STATE OF ARIZONA

In Re Matter of:	Case No: FC2023-052114
LAURA OWENS,	**MOTION FOR JUDGMENT ON THE PLEADINGS AND RENEWED MOTION TO DISMISS**
Petitioner,	
And	**(Assigned to Hon. Julie Mata)**
CLAYTON ECHARD,	**(ORAL ARGUMENT REQUESTED)**
Respondent.	

GINGRAS LAW OFFICE, PLLC
4802 E RAY ROAD, #23-271
PHOENIX, ARIZONA 85044

Legal arguments cannot be raised for the first time on appeal. To ensure a complete record, this motion raises a very simple question of law – can a Court sanction a litigant under Rule 26 for bringing a groundless case *without* first giving the litigant a warning and an opportunity to drop the case? The answer to that question is NO.

Due to the traditional requirements of due process (i.e., notice and a fair chance to be heard), Arizona law does not permit sanctions against a litigant without at least two prior procedural steps occurring first: 1.) the litigant must be giving a warning that sanctions will be imposed; and 2.) the litigant must be given an opportunity to withdraw the offending claim or pleading *before* sanctions accrue.

It is undisputed neither of those procedural requirements were followed in this case. As a result, even if Mr. Echard is 100% correct, and even if Ms. Owens was never pregnant (and knew she was not pregnant at the time this matter was filed), this Court cannot, as a matter of law, impose the sanctions Mr. Echard seeks.

Therefore, pursuant to Rule 29(c), Ariz. R. Fam. L. P., Petitioner Laura Owens moves the Court for an order granting judgment on the pleadings with respect to any request for sanctions and/or fees made by Respondent Clayton Echard ("Mr. Echard" or "Respondent"), whether based on his motion under Rule 26 or based on the Court's own motion under that same rule.

I. INTRODUCTION

The Court is familiar with the facts, so they will only be briefly summarized. Ms. Owens claims she had sex with Mr. Echard in May 2023. She claims multiple tests showed she was pregnant in June 2023, and after Mr. Echard refused to discuss the situation with her, Ms. Owens filed this establishment action on August 1, 2023.

The parties agreed to submit to DNA testing in late September/early October 2023. Those tests were inconclusive, and Ms. Owens claims her pregnancy ended with a miscarriage shortly thereafter. Because the paternity issues in this case were moot, on December 28, 2023, Ms. Owens moved to dismiss the case under Rule 36.

On January 3, 2024, just 13 court days after his counsel first appeared, Mr. Echard filed a Rule 26 Motion for Sanctions. The motion claimed Ms. Owens fabricated her pregnancy and thus violated Rule 26(b)(3)'s requirement that her claims "have evidentiary support". Mr. Echard's Rule 26 motion is set for an evidentiary hearing on June 10, 2024.

Shortly after undersigned counsel was retained, it was determined that before his Rule 26 motion was filed, Mr. Echard failed to comply with *any* of the procedural prerequisites of either Rule 9(c) or Rule 26(b)(2). In short, Mr. Echard made no effort to meet and confer with Ms. Owens (as required by Rule 9(c) and Rule 26(c)(2)(A)), and he failed to give the <u>mandatory</u> 10-day written notice required by Rule 26(c)(2)(B). Finally, Mr. Echard failed to provide Ms. Owens with an opportunity to withdraw her petition, as required by Rule 26(c)(2)(B). He filed the motion for sanctions without ever talking to Ms. Owens about the matter, and without giving her any opportunity to withdraw her petition (as she was plainly ready and willing to do).

GINGRAS LAW OFFICE, PLLC
4802 E RAY ROAD, #23-271
PHOENIX, ARIZONA 85044

After discovering these errors, undersigned counsel met and conferred with Mr. Echard's counsel and demanded the Rule 26 motion be withdrawn because it was filed without satisfying any of the rule's procedural prerequisites. Despite some initial resistance, on April 3, 2024, Mr. Echard filed a motion to withdraw his Rule 26 request for sanctions. Thus, at present, there is no pending motion for sanctions of any kind before this Court. Likewise, this Court has not independently issued an Order to Show Cause informing Ms. Owens that *sua sponte* sanctions are being considered.

Given this odd posture, there is no *procedural* basis under which this Court could lawfully award sanctions to Mr. Echard. This is true even if Ms. Owens lied about being pregnant. That is so because there is no dispute—Mr. Echard failed to satisfy any of Rule 26's mandatory technical requirements which this Court is required to "strictly enforce", and this Court can neither disregard nor retroactively fix those errors.

Hypothetically, even though Mr. Echard has *not* moved for sanctions under A.R.S. § 12–349, it is clear sanctions could not be awarded under that statute either because Ms. Owens moved to voluntarily dismiss this action last December, thus precluding any award of sanctions or fees incurred after that date. *See* A.R.S. § 12–349(c).

For these reasons, Ms. Owens is entitled to judgment in her favor on the issue of sanctions. No hearing is needed to reach that result because none of the facts requiring this result are contested. The issue is purely a matter of law.

II. DISCUSSION

Rule 29(c) provides: "A party may move for judgment on the pleadings within such time so as not to delay trial." When considering this motion, the Court must assume all well-pleaded factual allegations in the challenged pleading are true, and if those facts do not permit relief as a matter of law, "judgment should be entered for the [adverse party]." *Giles v. Marce*, 195 Ariz. 358, 359 (App. Div. 2 1999) (emphasis added) (citing *Shannon v. Butler Homes, Inc*., 102 Ariz. 312, 428 P.2d 990 (1967); *In re One Single Family Residence and Real Property Located at 15453 N. Second Ave*., 185 Ariz. 35, 912 P.2d 39 (App. 1996)); *see also American Fed'n of State, County &*

GINGRAS LAW OFFICE, PLLC
4802 E RAY ROAD, #23-271
PHOENIX, ARIZONA 85044

Mun. Employees, Council 97 v. Lewis, 165 Ariz. 149, 151 (App. Div. 1 1990) (explaining standards for such motions).

Here, for the limited purposes of this motion, the Court may assume every factual allegation in Mr. Echard's now-withdrawn Rule 26 motion is true. The Court may assume Ms. Owens was never pregnant. The Court may assume she filed this action knowing she was not pregnant, even though Ms. Owens disputes this.

Under the clearly established legal standards of Rule 26, none of that matters. Even assuming Ms. Owens violated Rule 26 by filing this action knowing it was baseless, sanctions cannot be awarded to Mr. Echard because he failed to comply with the strict procedural requirements of Rule 26.

That error ends the inquiry. If this Court granted sanctions despite that error, the ruling would be erroneous as a matter of law and would be reversed on appeal. Ms. Owens is thus entitled to judgment as a matter of law in her favor as to the question of Rule 26 sanctions.

a. Sanctions Are Not Available Under Rule 26 Because Mr. Echard Failed To Comply With Rule 11/26's Technical Requirements

As the Court will recall, years ago the standards for sanctions under Rule 11[1] (before the Family Law Rules of Procedure existed) were burdensome and onerous. Before seeking sanctions, a party was required to: 1.) draft a proposed motion for sanctions, 2.) personally serve the motion on the opposing party, and 3.) wait 21 days before the motion could be filed. During that 21 day "safe harbor" period, the alleged violator had an *absolute right* to cure the problem, and escape sanctions, by correcting or withdrawing the offending pleading, even assuming it was entirely groundless.

[1] For obvious reasons, cases interpreting Family Law Rule 26 are scant, whereas authority interpreting Civil Rule 11 is abundant. Thus, this brief will primarily cite state and federal cases dealing with Rule 11, which is functionally identical to Family Law Rule 26. *See James, Cooke & Hobson, Inc. v. Lake Havasu Plumbing & Fire Protection*, 177 Ariz. 316, 318-19, 868 P.2d 329, 331–32 (App. 1994) (explaining Arizona courts look to federal case law construing and interpreting a state rules' federal counterpart); *Smith v. Lucia*, 173 Ariz. 290, 297, 842 P.2d 1303, 1310 (App. 1992) (same).

GINGRAS LAW OFFICE, PLLC
4802 E RAY ROAD, #23-271
PHOENIX, ARIZONA 85044

If the violator opted to accept the safe harbor, the motion for sanctions could not be filed and sanctions could not be granted. *See*, *e.g.*, *Sneller v. City of Bainbridge Island*, 606 F.3d 636, 638-639 (9th Cir. 2010) (discussing former version of Rule 11, and explaining, "Rule 11 authorizes a court to impose a sanction on any attorney, law firm, or party that brings a claim for an improper purpose or without support in law or evidence. Rule 11(c), however, provides a 21-day safe harbor period. Under this provision, Rule 11 sanctions **may not be imposed** if the challenged claim is withdrawn within 21 days after service of the sanctions motion.") (emphasis added).

That lengthy 21 *calendar* day (now 10 *court* day) waiting period has *always* been, and still is, absolutely mandatory without exception. When a party fails to follow the strict procedural requirements of the rule, a trial court literally "lacks the power to impose Rule 11 sanctions …." *Westerkamp v. Mueller*, 2023 U.S. Dist. LEXIS 96531 *7 n.1; 2023 WL 3792739, *7 n.1 (D.Ariz. 2023) (emphasis added). By extension, if a trial court awards sanctions when the safe harbor requirements have *not* been strictly followed, the result is reversible error, even if the underlying filing is completely frivolous; "We must reverse the award of sanctions when the challenging party failed to comply with the safe harbor provisions, *even when the underlying filing is frivolous*." *Holgate v. Baldwin*, 425 F.3d 671, 678 (9th Cir. 2005) (emphasis added).

The purpose of Rule's 11's (and Family Law's Rule 26) "safe harbor" process is easy to understand. People (even lawyers) sometimes make mistakes. Whether a violation is intentional, malicious, or just accidental, Rule 26 was structured to encourage lawyers and litigants to promptly acknowledge mistakes by "correcting or withdrawing" the offending pleading *without* fear of devastating punishment.

If a party makes a mistake *but then voluntarily recants* (which is obviously a good thing), the law rewards that wise choice by granting a "safe harbor" from further punishment—as long as a claim is withdrawn during the grace period, sanctions cannot be awarded, even if a litigant *knowingly* brought a false/fabricated/groundless claim; "The purpose of the safe harbor . . . is to give the offending party the opportunity . . . to

GINGRAS LAW OFFICE, PLLC
4802 E RAY ROAD, #23-271
PHOENIX, ARIZONA 85044

withdraw the offending pleading and thereby escape sanctions." *Roberts v. Gallagher,* 2023 U.S. Dist. LEXIS 78231, *2-3 (D.Ariz. 2023) (quoting *Barber v. Miller*, 146 F.3d 707, 710 (9th Cir. 1998) (citing Fed. R. Civ. P. 11, Advisory Committee Notes, 1993 Amendments, Subdivisions (b) and (c) (explaining the 'safe harbor' provision protects the non-moving party from a motion for sanctions if the party makes a timely withdrawal of the contention that gave rise to the motion)).

Here, Mr. Echard disregarded this purpose and process. Instead, he jumped the gun by filing a premature request for sanctions *before* and *without* giving prior notice to Ms. Owens and without following *any* of the strict requirements of the rule. This is entirely undisputed. As a result and as a matter of law, Mr. Echard cannot now obtain sanctions, regardless of whether Ms. Owens was, or was not, ever pregnant.

b. Mr. Echard Failed To Comply With Rule 26's Requirements

i. Respondent Failed To Confer And Failed To Provide Ms. Owens With Notice Of Her Right To Withdraw Her Petition

Mr. Echard filed his Rule 26 motion on January 3, 2024 without complying with *either* of that Rule's two central requirements. First, Mr. Echard did not meet and confer with Ms. Owens as required by Rule 9(c) and Rule 26(c)(2)(A) (we know this because the motion never claims such a conferral occurred). Second, Mr. Echard failed to give a written 10-day warning as required by Rule 26(c)(2)(B) because, once again, his motion never claims such notice was given. That same issue was also mentioned on page 3 of Ms. Owens' Response to the Rule 26 motion, as shown here:

> Counsel for Respondent certified that he met and conferred with Petitioner on August 16, 2023, and with Petitioner's previous counsel, Alexis Lindvall, on December 27, 2023. However, Respondent's Motion did not include evidence demonstrating that Petitioner, or Petitioner's previous counsel were provided *written notice* of specific conduct alleged to have violated Rule 26(b), *ARFLP*. Written notice is required under subpart (c)(2)(B) of Rule 26, *ARFLP*. Without such written notice, Petitioner was not afforded time to cure any alleged deficiencies prior the filing of Respondent's Motion.

GINGRAS LAW OFFICE, PLLC
4802 E RAY ROAD, #23-271
PHOENIX, ARIZONA 85044

Indeed, Rule 26(c)(3) is explicit. In addition to the other requirements, Rule 26(c)(3)(D) requires that any motion for sanctions must prove compliance by "attach[ing] a copy of the written notice provided to the opposing party under subpart (c)(2)(B)." Here, no such notice was attached to Mr. Echard's motion because the mandatory notice was never given. For that reason alone, this Court "lacks authority" to even consider, much less award, Rule 26 sanctions.

To be sure—this type of procedural failure is hardly uncommon. It happens all the time, which is why there is such ample case law, cited *infra*, explaining how such an error eliminates the Court's power to award sanctions. As a matter of law, the fact Mr. Echard failed to comply with the Rule is conclusive of the issue.

ii. Mr. Echard Failed To Provide The Mandatory 10 Court Day Safe Harbor Period

Even if Mr. Echard had conferred (which he did not) and even if he had given the required written notice (which he did not), he *also* failed to notify Ms. Owens of the mandatory safe harbor period in which she had an absolute right to withdraw her petition and avoid sanctions. That fact precludes any award of Rule 26 sanctions, particularly given that Ms. Owens did, in fact, *try* to terminate this matter by moving to voluntarily dismiss the case on December 28, 2023 – before Mr. Echard's Rule 26 motion was filed.

In this way, Mr. Echard's bizarre actions are very similar to those described in *Westerkamp v. Mueller*, 2023 U.S. Dist. LEXIS 96531; 2023 WL 3792739 (D.Ariz. 2023). In *Westerkamp*, like here, the party who initiated the action (plaintiff) tried to voluntarily dismiss the case.

Like here, the party who did *not* initiate the action (defendant) rejected the plaintiff's offer to dismiss. This is the same thing that happened here – where Ms. Owens moved to voluntarily dismiss *before* Mr. Echard's Rule 26 motion was filed.

In *Westerkamp*, unlike this case, after the defendant rejected plaintiff's offer to voluntarily dismiss the case, but before any sanctions motion was filed, the defendant

GINGRAS LAW OFFICE, PLLC
4802 E RAY ROAD, #23-271
PHOENIX, ARIZONA 85044

sent a proper written notice to the plaintiff warning of his intent to seek sanctions. Eight days later, within the safe harbor period of Rule 11, the plaintiff filed a motion to voluntarily dismiss the case which (like this case) the defendant opposed. Despite the plaintiff's clear attempt to end the dispute by offering (and then moving) to voluntarily dismiss, the defendant still for moved Rule 11 sanctions.

Given the posture, the District Court rightly explained, "This bizarre backdrop means that Defendant's motion for sanctions must be denied." *Id*. 2023 WL 3792739, *9. The Court explained "Defendant's basis for even threatening to seek Rule 11 sanctions based on the [allegedly frivolous pleading]—let alone formally moving for such sanctions—**evaporated** on March 2, 2023, when [plaintiff's] Counsel offered to stipulate to a dismissal of the entire case with prejudice." *Id*. (emphasis added).

Because the alleged wrongdoer in *Westerkamp* (the plaintiff) offered to withdraw his complaint and dismiss the action *before* the defendant moved for Rule 11 sanctions, the Court held it was **powerless to even consider**, much less grant, sanctions; "once Plaintiff moved for voluntary dismissal, Defendant was precluded from filing the Rule 11 motion." *Id.* at 10 (emphasis added) (citing *Great Dynasty Int'l Fin. Holdings Ltd. v. Haiting Li*, 2014 U.S. Dist. LEXIS 94658, 2014 WL 3381416, *6 (N.D. Cal. 2014) ("[T]he underlying purpose of the safe harbor precludes [a movant's] ability to move for sanctions given the offending pleading had already been withdrawn [via voluntary dismissal]."') (emphasis added)).

The posture of *Westerkamp* is not merely similar or analogous to this case; it is identical. In this case, like in *Westerkamp*, Ms. Owens commenced the proceeding but then sought to voluntarily terminate this case by moving to dismiss on December 28, 2023—days *before* Mr. Echard's Rule 26 motion was filed.

As the District Court held in *Westerkamp*, the fact Ms. Owens moved to withdraw her petition before any motion for sanctions was filed caused the basis for Mr. Echard's motion to instantly "evaporate". Once Ms. Owens' voluntary dismissal was filed, Mr. Echard was precluded from even filing a Rule 26 motion, let alone obtaining sanctions.

GINGRAS LAW OFFICE, PLLC
4802 E RAY ROAD, #23-271
PHOENIX, ARIZONA 85044

Another helpful, and even more closely analogous, example is *Radcliffe v. Rainbow Constr. Co.*, 254 F.3d 772 (9th Cir. 2001). In that case, like here, the defendant (Rainbow) filed a motion for Rule 11 sanctions *without* first conferring, and without providing written pre-motion notice to the alleged offender (the plaintiff, Radcliff). Procedurally, *Radcliffe* is identical to this case.

Even though Rainbow failed to follow the procedural requirements of Rule 11 (like Mr. Echard), the trial court held sanctions could still be awarded on the Court's own initiative. Based on that view, the trial court held a "literal application of the safe harbor provision was unnecessary in this case." *Radcliffe*, 254 F.3d at 789. Thereafter, the trial court awarded $75,000 in sanctions to Rainbow. *See id*.

On appeal, the Ninth Circuit *reversed*. In doing so, the Court explained when a party wants sanctions under Rule 11, they must comply with all procedural requirements of the rule. Compliance is mandatory, not optional. When this does not occur, a trial court cannot "fix" the mistake for them by treating a *defective* Rule 11 motion as a *sua sponte* motion by the Court (even though the Rule otherwise permits the Court to award sanctions on its own motion).

The Ninth Circuit rejected any attempt to convert a "noncompliant" motion by a party into a *sua sponte* motion by the Court as being inconsistent with the rules:

> We reject Rainbow's argument that the district court's order for sanctions can be interpreted as a Rule 11 motion on the court's own initiative, pursuant to Fed. R. Civ. P. 11(c)(1)(B). This provision does not require twenty-day advance notice. We reject Rainbow's contention because it was Rainbow, not the court, that initiated the award of sanctions. The district court's discussion of the safe harbor provision in its order concerning sanctions serves to emphasize this point. It would render Rule 11(c)(1)(A)'s "safe harbor" provision meaningless to permit a party's noncompliant motion to be converted automatically into a court-initiated motion, thereby escaping the service requirement. *Because Rainbow did not follow the mandatory service procedure of Rule 11(c)(1)(A), we reverse the award of sanctions*.

Radcliffe, 254 F.3d at 789 (emphasis added).

GINGRAS LAW OFFICE, PLLC
4802 E RAY ROAD, #23-271
PHOENIX, ARIZONA 85044

The same rule governs here, and it is dispositive. Substantively and procedurally, the posture of *Radcliffe* is identical to this case. In both matters, a party moved for sanctions *without* complying with the safe-harbor provisions of the rule. Although Mr. Echard later withdrew his Rule 26 motion (to avoid sanctions himself), that error cannot now be "fixed" by converting his defective Rule 26 motion into a request under some *other* provision (such as on the Court's own motion, as in *Radcliffe*). Such a result would unlawfully deny Ms. Owens the safe harbor benefits to which she was absolutely entitled as a matter of law.

No further discussion is necessary for the Court to resolve the Rule 26 issue, and to deny an award of sanctions under that Rule and on any other hypothetical basis (such as A.R.S. § 12–349, because no such motion has been brought). Put simply, awarding sanctions after a party has *moved to withdraw or dismiss* their pleading is a direct violation of the safe harbor's structure and purpose of Rule 26, and is not permissible under any circumstances.

Based on these undisputed facts, Ms. Owens is entitled to judgment on the pleadings on the issue of sanctions. Accordingly, this Court should grant judgment in favor of Ms. Owens pursuant to Rule 29(c), and either dismiss this matter (as no further issues remain pending), or, at the very least, enter a partial final judgment in favor of Ms. Owens and against Mr. Echard as to the Rule 26 motion pursuant to Rule 78(b) (allowing the entry of a partial final judgment if other claims remain outstanding).

iii. Any Other *Future* Request For Sanctions Is Untimely

Because Mr. Echard did not follow the procedural requirements of Rule 26, sanctions cannot be awarded under that rule. As explained above, the problem cannot be retroactively "fixed" by converting the defective, and now withdrawn, motion into one seeking relief under some other authority. Doing so would violate Ms. Owens' safe harbor rights, *regardless* of whether sanctions might hypothetically be available under some *other* authority. *See Radcliffe*, 254 F.3d at 789 (citing *Barber v. Miller*, 146 F.3d 707 (9th Cir. 1998)).

GINGRAS LAW OFFICE, PLLC
4802 E RAY ROAD, #23-271
PHOENIX, ARIZONA 85044

However, presumably Mr. Echard may intend to bring a *new* motion for sanctions under some alternative theory. If that is his plan, it is worth noting that in addition to its *procedural* requirements, Rule 11/26 also contain implicit *temporal* restrictions; i.e., such motions must be brought within a *reasonable* amount of time after a violation is discovered. Any unfair delay in seeking sanctions renders the request untimely.

This rule exists to promote judicial efficiency and to serve the underlying purpose of the safe harbor—i.e., to incentivize the offending party to withdraw their claims *as soon as practicable*, and thereby avoid needless "satellite litigation" (as has occurred in this case). For that reason, courts routinely *deny* requests for sanctions when they are made too late in the proceeding to serve the intended purpose of the rule:

> To promote judicial economy, a sanctions motion should, as a general rule, be filed promptly upon discovery of the alleged violation. See Fed. R. Civ. P. 11 advisory committee's note to 1993 amendment ("Ordinarily the motion should be served promptly after the inappropriate paper is filed, and, if delayed too long, may be viewed as untimely.").
>
> Promptness in filing sanctions motions serves, *inter alia*, to deter further misconduct and to foster judicial efficiency by allowing courts to address and resolve what are typically fact-intensive disputes close in time to the underlying events. Here, the plaintiffs' sanctions motion was based on purportedly wrongful conduct by ORHub's counsel that had occurred a year and a half earlier, a delay that is excessive on its face.

Buonincontri v. ORHub, Inc., 2023 Ariz. App. Unpub. LEXIS 205 *; 2023 WL 2250355 (App. Div. 1 2023)[2] (cleaned up) (citing *Mary Ann Pensiero, Inc. v. Lingle*, 847 F.2d 90, 99 (3d Cir. 1988) (requiring "prompt action by a litigant whenever a [Rule 11] violation appears" because "[p]romptness in filing valid [Rule 11] motions will serve . . . to foster efficiency"); *Vandeventer v. Wabash Nat'l Corp.*, 893 F. Supp. 827, 844 (N.D. Ind. 1995) (denying, as "untimely as a matter of law," an "extremely late" Rule 11 motion filed more than "seventeen months after" the offending conduct)).

[2] *Buonincontri* is an unpublished memorandum decision by the Court of Appeals. As such, pursuant to Ariz. Sup. Ct. R. 111(c)(1)(C), it is cited for persuasive value only, because no other published opinion adequately addresses the issues.

GINGRAS LAW OFFICE, PLLC
4802 E RAY ROAD, #23-271
PHOENIX, ARIZONA 85044

In this case, shortly after the petition was filed on August 1, 2023, if Mr. Echard truly believed Ms. Owens violated Rule 26 by filing this action *knowing* she was not pregnant, he could and should have immediately served her with a Rule 26-compliant demand explaining he would seek sanctions unless she withdrew her petition. Had he done so, this matter would have ended almost six months ago, with $0 fees/costs incurred by either party.

Now, more than 9 months after the action was filed (and nearly five months *after* Ms. Owens moved to voluntarily dismiss the case), the parties have needlessly incurred *substantial* attorney's fees and costs which only continue to grow every day. Those costs and fees would not have been incurred by either party if Mr. Echard had simply served a Rule 26-compliant demand (at the start of the case), or if he had agreed to allow Ms. Owens to voluntarily dismiss the case at the end of December.

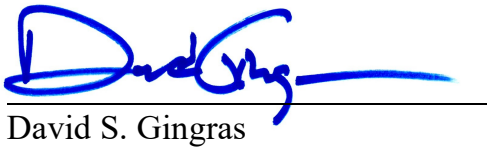
In this bizarre posture, and bearing in mind there is no pending motion for sanctions filed by Mr. Echard, any judicial efficiency that would be promoted by punishing Ms. Owens for filing this action on August 1, 2023 (or by compelling her to withdraw her petition, as she has already tried to do) has completely vanished. Thus, although Mr. Echard has not brought a new motion for sanctions since the previous one was withdrawn, any new motion would be untimely as a matter of law.

III. CONCLUSION

For all the reasons stated above, Petitioner moves the Court for an order granting judgment as a matter of law as to Mr. Echard's Rule 26 motion for sanctions, including any such request to the extent is based on the Court's own motion or other authority.

DATED May 10, 2024.

GINGRAS LAW OFFICE, PLLC



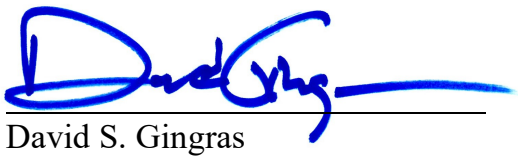
David S. Gingras
Attorney for Petitioner
Laura Owens

GINGRAS LAW OFFICE, PLLC
4802 E RAY ROAD, #23-271
PHOENIX, ARIZONA 85044

GOOD FAITH CONSULTATION CERTIFICATE

Pursuant to Rule 9(c) Ariz. R. Fam. L. P., the undersigned certifies that he has made a good faith attempt to resolve the issues in this motion by consulting with opposing counsel, but those efforts were not successful.

EXECUTED ON May 10, 2024.



David S. Gingras

GINGRAS LAW OFFICE, PLLC
4802 E RAY ROAD, #23-271
PHOENIX, ARIZONA 85044

Original e-filed
and **COPIES** e-delivered May 10, 2024 to:

Gregg R. Woodnick, Esq.
Isabel Ranney, Esq.
Woodnick Law, PLLC
1747 E. Morten Avenue, Suite 505
Phoenix, AZ 85020
Attorneys for Respondent

GINGRAS LAW OFFICE, PLLC
4802 E RAY ROAD, #23-271
PHOENIX, ARIZONA 85044