

1 KRISTIN K. MAYES
Attorney General
2 (Firm State Bar No. 14000)

3 PAMELA PEISER
State Bar No. 019941
4 Office of the Attorney General
2005 N. Central Avenue
5 Phoenix, Arizona 85004
Telephone: (602) 364-1523
6 Email: Pamela.Peiser@azag.gov
7 Email: AdminLaw@azag.gov

8 *Attorneys for the*
Non-Party Judge Mata

9
10 **IN THE SUPREME COURT OF THE STATE OF ARIZONA**
11 **BEFORE THE PRESIDING DISCIPLINARY JUDGE**

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

PDJ 2026-9010

13 **DAVID S. GINGRAS**
Bar No. 021097
14 Respondent.

**NON-PARTY RESPONSE TO
MOTION TO COMPEL/REPLY IN
SUPPORT OF OBJECTION TO
SUBPOENA DUCES TECUM FOR
JUDGE MATA RECORDS AND
MOTION TO QUASH**

Assigned to:
Honorable Lisa Vandenberg, Presiding
Disciplinary Judge

15
16
17
18
19 Pursuant to Arizona Supreme Court Rule 47(d) and (h)(3), and Arizona Rules of Civil
20 Procedure 7.1(a)(3), non-party Maricopa County Superior Court Judge Julie Mata (“Judge
21 Mata”), by and through undersigned counsel, respectfully submits this Response to
22 Respondent Gingras’ Motion to Compel¹ and Reply in Support of (“Response and Reply”)
23
24

25
26 ¹ Although the Motion to Compel seeks action against Judge Mata and Harry Howe collectively, undersigned counsel submits arguments on behalf of Judge Mata only.

1 Non-Party Judge Mata’s Objection to Subpoena Duces Tecum for Records and Motion to
2 Quash (“Objection”).² Any specific references to Respondent Gingras’ subpoena, dated
3 March 3, 2026 (“Subpoena”) will again be as numerically set forth in the Subpoena itself.
4 For the Court’s convenience, undersigned counsel restates below, briefly, the arguments
5 contained in the filed Objection. Judge Mata continues to be a sitting judicial officer on the
6 Maricopa County Superior Court and remains a non-party in this State Bar of Arizona (“State
7 Bar”) discipline matter. Undersigned counsel affirms that this motion is not made for the
8 purposes of delay, and is in the interests of justice.
9
10
11

12 **The Motion to Compel Is Premature.**

13 The Ripeness Doctrine prevents a court from rendering a premature judgment or
14 opinion on a situation that may never occur. *Winkle v. City of Tucson*, 190 Ariz. 413, 415
15 (1997). Here, Respondent Gingras’ Motion to Compel seeks forced compliance with his
16 March 3, 2026, Subpoena *before* this Court has made any ruling on the pending objection
17 Judge Mata filed on March 17, 2026. Judge Mata has not failed to comply with any court
18 orders, nor has Judge Mata indicated that she will do so. Judge Mata has objected and sought
19 to quash Respondent Gingras’ Subpoena as permitted under the applicable rules of procedure
20 and awaits this Court’s determination as to what, if any, subsequent action is needed. Until
21
22
23
24

25 _____
26 ² Undersigned counsel submits this combined Response and Reply rather than two individual pleadings in an effort to minimize unnecessary and prolonged litigation going forward.

1 Judge Mata refuses to obey a lawful court order, a motion to compel is not ripe for
2 consideration.

3 4 **Summary of Objections Previously Made**

5
6 The Subpoena appears to seek documents and testimony related to *Owens v. Echard*,
7 Maricopa County Superior Court Case Nos. FC2023-052114 and FC2023-05277, rather than
8 allow Respondent Gingras to obtain information to defend against the pending State Bar
9 action. Public policy favors the protection of judicial integrity and dignity, and therefore
10 requires this Court to quash the Subpoena. Many of the documents that Respondent Gingras
11 has subpoenaed from Judge Mata, as well as the testimony request that is expected going
12 forward, are records that do nothing more than delve into Judge Mata's judicial thought
13 process as it relates to the *Owens v. Echard*, Maricopa County Superior Court Case Nos.
14 FC2023-052114 and FC2023-05277 in what appears to be a re-litigation of those matters.
15
16 Should this Court order Judge Mata to testify, the order should limit Judge Mata's testimony
17 to factual matters concerning conduct that she observed *and* which cannot be gleaned from
18 the record or others who were also present. Additionally, to preserve judicial integrity, this
19 Court should limit Respondent Gingras' information gathering, with respect to non-parties, to
20 information relevant to the pending State Bar action to minimize the harassing impact such a
21 search has on these same non-parties.
22
23

24 Before this Court considers ordering any one to provide documents or testimony, it
25 should determine whether the requested documents or testimony are relevant. All evidence
26

1 sought should be limited to that in existence at the time of Respondent Gingras' behavior that
2 is at issue in the pending bar complaint, as required by the Preamble [19] to the Arizona
3 Rules of Professional Conduct because "disciplinary assessment of a lawyer's conduct will be
4 made on the basis of the facts and circumstances as they existed at the time of the conduct in
5 question," and not later obtained evidence.
6

7 Judge Mata does not possess responsive documents or social media information as
8 requested in paragraphs 4 and 5 of the Subpoena. Regarding the request for minute entries,
9 rulings, or decisions issued by Judge Mata during 2023-2024 that contain the words "snake"
10 or "python", as set forth in item 6 of the Subpoena, Judge Mata is not the custodian of the
11 requested records. Any search for the terms "snake" or "python" contained in the identified
12 documents, to the extent they exist, would be onerous and burdensome for a non-custodian to
13 undertake because the database that houses court records does not have a word search feature.
14 The requests appear to be nothing more than a continued attempt to re-litigate trial court
15 matters and Respondent Gingras' Motion to Compel should be denied.
16
17
18

19 **The Bar Complaint Alleges Behavior Which Can Be Independently Corroborated.**
20

21 The submitted Bar Complaint, dated September 17, 2024 ("Bar Complaint") alleges
22 that Respondent Gingras' *behavior* – his 911 call to have Michael Marraccini arrested; his
23 apparent signaling to his client during her trial testimony; and his alleging Judge Mata
24 committed misconduct in an email to chambers, followed by the filing of a pleading that was
25 unprofessional and disparaging towards that court - was the basis for the submitted Bar
26

1 Complaint. All of these alleged incidents regarding Respondent Gingras' behavior can be
2 independently corroborated through other persons or court documents. None of the Bar
3 Complaint's allegations regarding Respondent Gingras' actions require Judge Mata's
4 testimony to discuss or explain them. Respondent Gingras himself can explain his own
5 behavior or, in the case of Respondent Gingras' pleading, the pleading itself can be reviewed.
6 Furthermore, audio and video recordings can likely be obtained for use as evidence.
7

8
9 **Discipline Matters Proceed On a Rules-Based Schedule.**

10
11 It is clear that Respondent Gingras takes exception to the charges submitted for
12 discipline by the State Bar. While Respondent Gingras believes that discussions have
13 occurred between the State Bar and Judge Mata, he has yet to make an offer of proof to show
14 that Judge Mata *actually* discussed the pending charges with the State Bar or took any steps
15 beyond what is contained in the Bar Complaint. Nor can Respondent Gingras show that
16 Judge Mata volunteered to cooperate or testify on the behalf of one side and to the exclusion
17 of the other. Undersigned counsel understands that discovery in this matter is ongoing.
18 Respondent Gingras asserts that he can obtain the subpoenaed information from Judge Mata
19 more quickly than he could otherwise by waiting for the State Bar's written response to a
20 discovery request. While this assertion may be true, it does not provide a sufficient basis for
21 disregarding the public policy concerns raised in Judge Mata's Objection or overcome the
22 fact that the subpoenaed information is available from alternative sources. Respondent
23 Gingras must follow the same rules and schedule that the State Bar must follow. His desire to
24
25
26

1 work on his preferred schedule is an insufficient reason to disregard alternative sources for
2 the requested information or to override public policy concerns.

3
4 **Judicial Thought Process Has Not Been Waived.**

5
6 Judge Mata’s submission of a referral to the State Bar regarding Respondent Gingras’
7 behavior does not waive Judicial Thought Process protections and Respondent Gingras
8 cannot show that a waiver has occurred. Waiver must be a knowing and voluntary
9 relinquishment. See *Robert W. Baird & Co. Inc. v. Whitten*, 244 Ariz. 121, 125 (Ct. App.
10 2017). Although waiver may be implied or explicit, Respondent Gingras has shown neither
11 here.

12
13 Moreover, Respondent Gingras suggests that Judge Mata’s filing of the Bar Complaint
14 itself waives the protections of Judicial Thought Process. Individuals making complaints to
15 the State Bar regarding attorney behavior enjoy some degree of protection when making such
16 a complaint regardless of their position. For example, because “... the Arizona State Bar acts
17 in a judicial capacity in dealing with attorneys’ conduct, an absolute judicial privilege also
18 protects anyone who files a complaint...” *Ashton Blair v. Merrill*, 187 Ariz. 315, 317 (1996).
19 This privilege is absolute rather than conditional to encourage the reporting of perceived
20 unethical conduct which practically serves to aid in the minimization of retaliatory actions.
21 *Id.* at 317-318. Just as non-judicial complainants are protected against defamation claims
22 when filing attorney behavior complaints with the State Bar, judges are also protected from a
23 finding of waiver of Judicial Thought Process when doing the same. The Bar Complaint
24
25
26

1 itself is clear – it demonstrates that it is Respondent Gingras’ actions that are the basis for the
2 making of the Bar Complaint, actions which can be independently shown without Judge
3 Mata’s continued or forced involvement.
4

6 **Conclusion**

7 Respondent Gingras suggests that Judge Mata’s exercise of the rights afforded to
8 parties and non-parties alike is unreasonable because she, via undersigned counsel, filed an
9 objection leaving him few options, options he does not like. Although this discipline matter
10 is about Respondent Gingras’ behavior, he continues to use it to re-litigate both his complaint
11 to the Commission on Judicial Conduct about Judge Mata and the *Owens v. Echard*,
12 Maricopa County Superior Court Case Nos. FC2023-052114 and FC2023-05277.
13

14 For the reasons provided above, Judge Mata maintains her objection to the production
15 of the requested documents and asks that the Subpoena be quashed in its entirety – the
16 Subpoena attempts to breach the protections of Judicial Thought Process or is simply being
17 used for purposes of harassment. Should this Court determine that the available requested
18 documents are relevant, Judge Mata asks this Court to direct Respondent Gingras to pursue
19 information from the available sources that do not require the participation of a sitting
20 member of the judiciary. Respondent Gingras’ desire to get discovery from non-parties
21 because he deems it “faster” than getting it via a discovery request to the State Bar of Arizona
22 is not appropriate just because he demands it because his convenience is not appropriate
23 factor for consideration. Nor has any waiver occurred.
24
25
26

1 **ORIGINAL** of the foregoing electronically filed
2 this 30th day of March, 2026, with:

3 Office of Presiding Disciplinary Judge
4 Honorable Lisa Vandenberg
5 c/o Disciplinary Clerk of the Superior Court
6 1501 W. Washington, Suite 102
7 Phoenix, Arizona 85007
8 officepdj@courts.az.gov

9 **COPY** of the foregoing emailed
10 this 30th day of March, 2026 to:

11 Jim Lee
12 Jim.Lee@staff.azbar.org

13 Craig Henley
14 Craig.Henley@staff.azbar.org
15 Senior Bar Counsel

16 David Gingras
17 david@gingraslaw.com

18 Respondent

19 By: /s/ Marcia House