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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 2026-9010** **REPLY TO STATE BAR'S MOTION FOR JUDGMENT ON PLEADINGS** State Bar No. 24-1692, 24-1826, 24-2483, 24-2819, 24-3080 and 25-1230

The State Bar of Arizona, by undersigned bar counsel, submits this reply to the State Bar's Motion for Judgment on Pleadings.

I. INTRODUCTION.

A. Respondent's motion contains significant information wholly irrelevant to attorney discipline cases.

Arizona attorney discipline cases are *sui generis*. *See* Rule 48(a), Ariz. R. Sup. Ct. The proceedings are expedited and therefore, by necessity, limited to

issues relevant to the allegations of *attorney misconduct*. *See* Rule 58(j), Ariz. R. Sup. Ct.

The pending motion identifies the pertinent admitted factual allegations and seeks findings for the related ethical violations. *See* Rule 12(c), Ariz. R. Civ. Pro. (specifically incorporated into attorney discipline proceedings pursuant to Rule 48(b), Ariz. R. Sup. Ct.).

As explained more fully below, Respondent failed to offer any relevant legal basis to defend his actions and instead argues that he would rather continue litigating the dismissed underlying state court case(s) in this *attorney discipline* matter. *See* Response at pg. 2-3.

II. FACTUAL BASIS REMAIN UNDISPUTED.

A. Respondent's knew that his admitted conduct violated Rule 42, Ariz. R. Sup. Ct., ERs 3.4(c), 3.6(a), 4.4(a), and Rule 54(c), Ariz. R. Sup. Ct.

Rule 42, Ariz. R. Sup. Ct., ERs 3.4(c) and 3.6(a), and Rule 54(c), Ariz. R. Sup. Ct. requires a "knowing" mental state. Rule 42, Ariz. R. Sup. Ct., ER 1.0 states that "'[k]nowing,' 'known,' or 'knows' denotes actual knowledge of the fact in question…and may be inferred from circumstances." *See also In re: Witt*, 257 Ariz. 12 (2024).

Respondent's response offers no legal dispute that:

1. He knew that the February 21, 2024 court order unambiguously stated: "**LET THE RECORD FURTHER REFLECT** that no party shall disclose outside of themselves any medical or other documentation (exhibits, medical records, etc.) disclosed between the parties." [*See* Amended Complaint and Amended Answer (jointly referred to as "C&A" ¶¶ 9, 24-25, 41, 49; *see also* Response at pg. 9][1]
2. Despite his actual knowledge of the court's prohibition, Respondent nevertheless:
    - Filed a motion attaching his signed declaration and including three medical records. [C&A ¶¶ 42-44]
    - Posted Sonora Quest Laboratories medical records online. [C&A ¶¶ 47]

[1] Respondent attempts to create a "strawman" alleging that the State Bar believes that the order required a protection order before filing medical records or other documents. While Respondent should have obtained a protective order, sought relief from the court, or taken some action(s) to ensure his compliance with the order, the order does not contain requirement(s) as to *how* the parties should comply with the plain language of the prohibition. *See also* Rule 60, Ariz. R. Civ. Pro.

3. Respondent also knew that opposing counsel informed him of his violations of the February 21, 2024 court order. [C&A ¶49]

4. Despite his admitted actual knowledge of the foregoing, Respondent repeatedly violated the unambiguous prohibition by:

    - Posting portions of another medical records online. [C&A ¶ 52]
    - Filing another document which included medical records and excerpts from expert medical reports prepared for the opposing party. [C&A ¶¶ 53, 55-58]
    - Posting a copy of his filed document as well as the attached medical records and excerpts from the expert reports online. [C&A ¶ 59]

Respondent's multiple violations of the court's prohibition by repeatedly disclosing medical records and other documents violated Rule 42, Ariz. R. Sup. Ct., ERs 3.4(c), 3.6(a), 4.4(a), and Rule 54(c), Ariz. R. Sup. Ct.

B. Respondent violated Rule 41(b)(3) and (7), Ariz. R. Sup. Ct., and Rule 42, Ariz. R. Sup. Ct. ERs 8.2.

> Respondent admits making certain statements regarding Judge Mata, the contents of which speak for themselves. Respondent affirmatively alleges every statement he made regarding Judge Mata was factually true, or was made with a good faith basis to believe it was true, or was

an opinion protected by the First Amendment to the United States Constitution and by the Arizona Constitution." [C&A ¶ 101]

While Respondent attempts to "justify" his unapologetic violations of his professionalism and ethical obligations, Respondent suggests that his misconduct is constitutionally protected. The Arizona Supreme Court disagrees:

1) The First Amendment Rights of Attorneys

In re: Matter of James Lawrence Riley, 142 Ariz. 604, 691 P.2d 695 (1984) ["…***a lawyer is held to a narrower standard of free speech that a non-lawyer when discussing the judiciary***:…***A member of the bar can, and will, be stopped at the point where he infringes our Canon of Ethics; and if he wishes to remain a member of the bar he will conduct himself in accordance therewith***… The dissent in this case notwithstanding, we believe that our opinion here today in no way diminishes the First Amendment freedoms enjoyed by lawyers."] (Emphasis added)

In re: Meyer L. Ziman, SB-12-0037-AP (PDJ2011-9067)[2] ["***In taking the Oath of Admission to the Bar, lawyers swear that they will abstain from offensive conduct***…Rude attacking comments reflect poorly on a self regulating profession….] (Emphasis added)

2) The Objective Standard of Review Rendering Respondent's Subjective Opinion of Truth Irrelevant.

In re: Douglas B. Levy, SB-21-0085-AP ["Although the [P]anel could consider Martinez's subjective motive in evaluating an ER 4.4(a) violation, ***ultimately it was required to apply an objective standard***," citing *In re*

[2] While Respondent's response mentions the reported *Ziman* case identifying similar unprofessional behavior, Respondent fails to address the factually unrelated *Ziman* attorney discipline case.

Alexander, 232 Ariz. 1, 7 ¶ 23 (2013). ***Likewise here, the Panel erred in determining that the subjective belief that abusive language is acceptable if it reflects the "honest opinion," and should have applied an objective standard to determine if the demeaning language constituted unprofessional conduct***..."] (Emphasis added)

3) Importance of Professionalism and Respect in Litigation.

In re: Vladimir Gagic, SB-22-0085-AP ["The Court is mindful that the purpose of professional discipline is to protect the public and deter similar conduct by others…However, ***a relentless campaign to malign and embarrass opposing counsel and the judiciary is clearly prohibited conduct.***"] (Emphasis added)

III. RESPONDENT'S GENERAL BELIEFS AND "REASONS".

A. Respondent suggests that the motion should fail for "three separate, independent reasons".

In his response, Respondent offers the following: 1) "multiple material facts are in dispute", 2) "the bar's position is directly contrary to controlling law", and 3) "the bar has moved for judgment offensively".

1. "[M]ultiple material facts are in dispute."

The opposite is true. All the relevant facts in support of this motion were unequivocally admitted in Respondent's Answer and Amended Answer.[3]

[3] See *Schwartz v. Schwerin*, 85 Ariz. 242, 249 (1959) ["An admission in an answer is binding on the party making it, and is conclusive as to the admitted fact. No evidence may be shown to contradict [an] admitted fact."]

Respondent erroneously believes that the previously adjudicated facts in the underlying state court cases and his relentless campaign to continue maligning the judiciary should be the subject of this attorney discipline case. *See* Rule 49(d), Ariz. R. Sup. Ct.; *see also* Rule 12(c), Ariz. R. Civ. Pro. and ICMC order at footnote 1.

2. "[T]he bar's position is directly contrary to controlling law."

Respondent repeats the following in various forms throughout his response:

- Prior requests for confidential orders in the underlying case (all of which predated his representation) were denied prior to the February 21, 2024 court order. *See* Response at pgs. 7-8, et. seq.
- The language of the order is too vague to be understood. *Id*. at pgs. 9-14.
- Opposing counsel also engaged in misconduct; the State Bar is violating the anti-SLAPP law. *Id*. at pgs. 11-15.

As to the first claim, courts are authorized and frequently do, alter, revoke, amend, affirm, overrule, clarify, and reverse orders throughout the pendency of lawsuits. Prior rulings (which were later negated by written order) do not provide a "defense" or other justification for Respondent's knowledge and repeated violations of the valid February 21, 2024 court order.

As to Respondent's second claim, ***incredibly***, Respondent (an Arizona attorney of almost 22 years) suggests that the plain and unambiguous language of

the order is simply too vague to be understood as it did not contain the words "IT IS ORDERED" or use language specifically "sealing" the prohibited documents.

As to Respondent's third "catch all" claim of wrongdoing by others, the named Complainant(s) and the potential witnesses are not parties to this attorney discipline matters. *See* Rule 53(a), Ariz. R. Sup. Ct.; *see also* ABA *Standards* for Imposing Lawyer Sanctions 9.22(g).

None of these beliefs are accurate or state a legal dispute to the motion.

IV. CONCLUSION

Respondent has admitted the relevant actions and fails to provide a legal dispute that his actions complied with the Arizona Rules of the Supreme Court. Therefore, an evidentiary hearing on the admitted facts and resulting violations serves no purpose. Accordingly, the State Bar requests that the court enter a judgment against Respondent for his violation of the cited ethical rules.

DATED this 23rd day of March 2026.

STATE BAR OF ARIZONA

/s/ Craig D. Henley

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Craig D. Henley
Senior Bar Counsel

Original filed with the Disciplinary Clerk of
the Office of the Presiding Disciplinary Judge
of the Supreme Court of Arizona
this 23rd day of March 2026.

Copy of the foregoing e-mailed
this 23rd day of March 2026, to:

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