

BEFORE THE PRESIDING DISCIPLINARY JUDGE

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

DAVID S. GINGRAS

Bar No. 021097

Respondent.

No. PDJ 2026-9010

**RESPONSE TO MOTION TO
STRIKE**

Respondent David S. Gingras (“Respondent” or “Gingras”) respectfully submits the following Response to the State Bar’s Motion to Strike.

Respondent has received and reviewed the order issued yesterday, April 23, 2026, which indicated the Court was inclined to “suspend” the State Bar’s obligation to respond to the combined anti-SLAPP Motion to Dismiss/Motion for Summary Judgment until the Court rules on the question of whether Respondent has made a *prima facie* showing under A.R.S. § 12–751(B).

Many of Respondent’s pleadings are unfortunately lengthy; this one will be brief – Respondent agrees the PDJ’s proposal is the best approach here. A.R.S. § 12–751 provides an opposing party (like the State Bar) need not respond to a motion filed under that statute unless and until the Court finds a *prima facie* showing has been made. On the other hand, because the combined motion sought alternative relief in the form of summary judgment, the Bar would ordinarily be required to file a responsive brief to that part without the Court first making any findings. Respondent agrees that avoiding unnecessary or duplicative work is appropriate. The PDJ’s proposal achieves that result.

Also, for the sake of clarity – this may be obvious, but Respondent’s preferred relief is *not* summary judgment. Respondent’s primary focus is obtaining dismissal under the anti-SLAPP law, A.R.S. § 12–751. Respondent believes the anti-SLAPP law provides a more appropriate legal basis for dismissal for several reasons: first, because the anti-SLAPP law provides additional relief (including recovery of lost income, *see* A.R.S. § 12–751(F)) which is not available in a traditional summary judgment motion.

Second, resolution of this case under A.R.S. § 12–751 is preferable because the law is so simple. As explained in Respondent’s Reply ISO Motion to Exceed Page Limits (filed April 22, 2026), at least one Superior Court judge (in *State of Arizona v. Koert*) agreed A.R.S. § 12–751 gives litigants: “a mechanism to argue that the charges must be dismissed because of the unconstitutional motivations of the prosecutor. This is true regardless of whether the [defendant’s] conduct was lawful.” The law also allows dismissal of charges simply because the law is not “clearly established”.

If this Court reaches the same conclusion (which it should), this would drastically simplify the disposition of this case, or at least significant parts of it. This is so because claims could be dismissed *without* having to consider or decide their complicated factual and legal merits.

For instance, A.R.S. § 12–751(B)(1)(b) requires dismissal of otherwise valid claims unless the state actor proves it “has a consistent practice of pursuing similar legal actions against similarly situated persons” Respondent’s anti-SLAPP

motion argues the State Bar cannot meet that showing here because, for instance, the Bar has not acted consistently in this specific action. This is shown by the fact the bar has *not* pursued discipline against the opposing counsel in *Owens v. Echard*, Gregg Woodnick, despite clear evidence showing Mr. Woodnick did many of the exact same things Respondent did, such as filing unsealed pleadings containing “medical or other information” exchanged between the parties and making public statements about the case.

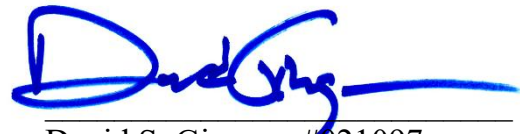
In short, the anti-SLAPP law prohibits state actors from “playing favorites” – picking and choosing to selectively punish only some lawyers but not others. That narrow issue (i.e., has the bar consistently enforced the rules?) is simple, and it would not require this Court to wade into the deep, murky, and complicated facts of *Owens v. Echard*. Evidence showing *inconsistent* enforcement of the rules by the State Bar is enough to end this Court’s inquiry.

Occam’s Razor teaches the simplest answer is usually best. Here, A.R.S. § 12–751 gives this Court the simplest possible tool for resolving some, if not all, of this highly complicated case. For that reason, it makes sense for the PDJ to do exactly what she has proposed – hold the Motion for Summary Judgment in abeyance until such time as the Court decides whether a *prima facie* showing has been made. If the answer is YES, the Court should then order the bar to file a responsive brief addressing the merits of the anti-SLAPP arguments. The Court could also order an evidentiary hearing on the issue, although Respondent believes

this is likely not necessary (because the evidence submitted to the Court is clear enough).

If the Court finds a *prima facie* showing has *not* been made, the next steps are simple. The Court can simply deny the anti-SLAPP motion on that basis. The Court would then order the bar to respond to the summary judgment aspects of the motion, and that motion would be resolved in the ordinary course.

Respectfully submitted April 24, 2026.

A handwritten signature in blue ink, appearing to read 'David S. Gingras', with a long horizontal flourish extending to the right.

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CERTIFICATE OF SERVICE

Original electronically filed via email to officepdj@courts.az.gov on April 24, 2026 with:

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/s/ David S. Gingras