

1 Matthew E. Kelley (037353)

2 [REDACTED]
3 BALLARD SPAHR LLP

4 [REDACTED]
5 Phoenix, AZ 85004-2555

6 Telephone: [REDACTED]

7 Facsimile: [REDACTED]

8 *Attorneys for Defendant Robert Andrejev*

9
10 ARIZONA SUPERIOR COURT

11 MARICOPA COUNTY

12 LAURA OWENS,

13 Plaintiff,

14 vs.

15 ROBERT ANDREJEV,

16 Defendant.

NO. CV2026-002304

**DEFENDANT'S RESPONSE IN
OPPOSITION TO PLAINTIFF'S
MOTION FOR FEES/COSTS**

(Assigned to the Hon. Lindsey Coates)

17
18 Defendant Robert Andrejev respects this Court's Order affirming and expanding the
19 Injunction Against Harassment in this case, and he has complied with its terms and will
20 continue to do so. This Court's adverse ruling against Mr. Andrejev does not automatically
21 entitle Plaintiff Laura Owens to an award of her reasonable attorneys' fees and costs,
22 however. *See* Ariz. R. Protective Order P. 39. Mr. Andrejev respectfully submits that this
23 Court should deny Plaintiffs Motion for Fees/Costs ("Mot. for Fees") because such an
24 award would be inequitable and contravene the Rule.

25 Under Arizona Rule of Protective Order Procedure 39, a court may require a party
26 to pay reasonable attorneys' fees and costs in the action, considering "(1) the merits of the
27 claim or the defense asserted by the unsuccessful party; (2) whether the award will pose an
28 extreme hardship on the unsuccessful party; and (3) whether the award may deter others

1 from making valid claims.” Ariz. R. Protective Order P. 39(b).

2 For each of these three considerations, Plaintiff’s Motion for Fees should be denied.
3 First, Mr. Andrejev’s defenses, though unsuccessful, were not meritless. They were based
4 on several good-faith arguments, including a First Amendment defense. Second, a fee
5 award would be an extreme hardship for Mr. Andrejev, who is disabled and lives on a fixed
6 income. Third, an award in this matter would discourage others from challenging
7 injunctions when they have a reasonable basis to contest an injunction that would abridge
8 their First Amendment rights. Finally, it would be inequitable to require Mr. Andrejev to
9 reimburse fees for time spent making false allegations of criminal conduct against him.
10 Accordingly, for these reasons, this Court should deny the Motion for Fees or, at a bare
11 minimum, substantially reduce the amount requested by Plaintiff.

12 **Argument**

13 **I. A FEE AWARD WOULD PENALIZE MR. ANDREJEV FOR**
14 **RAISING GOOD-FAITH DEFENSES.**

15 This Court should deny Ms. Owens’ request for attorneys’ fees and costs because
16 Mr. Andrejev’s defenses, though ultimately unsuccessful, were not without merit.
17 Contrary to Ms. Owens’ arguments, Mr. Andrejev’s defenses involved issues for which no
18 binding appellate authority exists to support Plaintiff’s interpretation of the law and were
19 presented in good faith.

20 Mr. Andrejev’s defenses included the argument that although his online statements
21 were about Ms. Owens, they were not directed at her as a matter of law because he did not
22 send them to Ms. Owens or any of her friends or relatives. *See* Mot. to Quash at 5-6 (citing
23 *LaFaro v. Cahill*, 203 Ariz. 482, 485-86 ¶ 13 (App. 2002), for the proposition that
24 comments overheard by, but not spoken to, plaintiff are not harassing under A.R.S. § 12-
25 1809(T)(1)(a)); Reply in Support of Mot. to Quash at 4-5 (same). This was anything but
26 the “clear misstatement of the law” that Ms. Owens claims, Mot. for Fees at 3, because
27 Arizona’s appellate courts have never decided this issue. Indeed, the only binding authority
28 Ms. Owens cites in arguing that *LaFaro* does not apply to online speech specifically says

1 the Court of Appeals was *not* overturning *LaFaro*. See *Raber v. Wagner*, 571 P.3d 902,
2 906 ¶ 13 (App. 2025) (“[W]e take no issue with our previous decisions that have vacated
3 protective orders on the ground that a defendant’s communications were directed toward
4 third parties rather than directly at the victims.”) (quoted in Plaintiff’s Resp. to Mot. to
5 Quash at 14).

6 As Mr. Andrejev has pointed out, Ms. Owens has not cited any case, binding or
7 otherwise, that holds online statements not specifically sent to the plaintiff or their
8 associates qualify as “directed” at the plaintiff under the statute. To the contrary, all of the
9 cases Ms. Owens has cited involved online or social media comments that the defendants
10 either directed specifically to the plaintiff or to the plaintiff’s relatives, coworkers or
11 business associates. See Reply in Support of Mot. to Quash at 4-5. Ms. Owens testified
12 that Mr. Andrejev had *not* sent any of his statements directly to her or anyone she knew;
13 rather, she testified that she was unaware of Mr. Andrejev’s YouTube postings until she
14 affirmatively sought them out.

15 This Court determined, applying the law to the facts, that Mr. Andrejev’s statements
16 did meet the statutory requirement to be directed at Ms. Owens. But that determination
17 does not mean that Mr. Andrejev should be penalized for raising good-faith arguments on
18 this unsettled question. As the Arizona Supreme Court recently explained in the context
19 of a fee application under A.R.S. § 12-349 for “groundless” claims, “a claim may lack
20 winning merit without being sufficiently devoid of rational support to render it groundless.”
21 *Ariz. Republican Party v. Richer*, 257 Ariz. 237, 243 ¶ 15 (2024). The Supreme Court
22 warned of the “real and present danger to the rule of law” if fee awards are granted too
23 easily: “By sanctioning parties and their lawyers for bringing debatable, long-shot
24 complaints courts risk chilling legal advocacy and citizens raising ‘questions’ under the
25 guise of defending the rule of law.” *Id.* at 251 ¶ 49.

26 Ms. Owens’ contention that the *only* reason she opposed the Motion to Quash “was
27 to ensure this Court was not misled” by the reference to “fabrications” in that Motion cuts
28

1 against Plaintiff's request for fees. Mot. for Fees at 3. If she had not appeared at the
2 hearing, the Injunction would have been dismissed as a matter of law. *See* Ariz. R.
3 Protective Order P. 38(f)(2). So, if Ms. Owens would have allowed the Injunction to be
4 dismissed had Mr. Andrejev not raised the issue of the errors in her Petition, then why was
5 the Injunction necessary in the first instance? Arguing that Mr. Andrejev should be, in
6 effect, sanctioned for raising good-faith arguments in exercising his statutory right to
7 challenge the Injunction is contrary to the statute's due-process considerations that include
8 the right to a hearing. To the extent any advocacy on behalf of Mr. Andrejev could be
9 characterized as an overstatement, Ms. Owens' response went a step further by falsely
10 accusing Mr. Andrejev of committing perjury. *See* Reply in Support of Mot. to Quash at
11 2-3.

12 In sum, the first consideration under Rule 39(b) militates *against* a fee award
13 because Mr. Andrejev's arguments were made in good faith on a matter of constitutional
14 law in connection with a hearing to which, as matter of fundamental due process, he was
15 statutorily entitled.

16 **II. A FEE AWARD WOULD IMPOSE AN EXTREME HARDSHIP ON**
17 **MR. ANDREJEV, [REDACTED]**

18 Requiring Mr. Andrejev to pay a fee award in this matter, particularly the nearly
19 \$8,500 Ms. Owens seeks, would impose an extreme and unfair hardship. As demonstrated
20 in his attached Declaration, Mr. Andrejev [REDACTED].

21 The specifics regarding Mr. Andrejev's [REDACTED] and other
22 financial information are set forth in his Declaration and its exhibits. *See* Andrejev Decl.
23 ¶¶ 3-5 & Exs. A & B.¹ As those materials show, the \$8,476.70 fee award Ms. Owens seeks
24 [REDACTED] Mr. Andrejev's monthly income.

25 As Ms. Owens notes, Mot. for Fees at 4, Mr. Andrejev created a page on
26 GiveSendGo to collect donations for his legal expenses in this matter. To date, there have

27 ¹ The exhibits and an unredacted version of the Declaration are being lodged for filing
28 under seal with an accompanying Motion to Seal to protect Mr. Andrejev's financial
privacy.

1 been \$3,215 in donations via GiveSendGo. Andrejev Decl. ¶ 6. The award Ms. Owens
2 requests therefore is more than 2.5 times the amount Mr. Andrejev has raised to defray his
3 legal expenses. And if the Court denies Plaintiff's Motion for Fees, as it should, the
4 relatively small amount of funds raised will not be squandered but rather used to pay Mr.
5 Andrejev's fees owed to his counsel in connection with his legal challenge to the
6 injunction.

7 Because imposing a fee award would be an extreme hardship, the second Rule 39
8 factor tips decisively against Ms. Owens. Mr. Andrejev respectfully requests that this
9 Court deny the fee award. In the alternative, Mr. Andrejev respectfully requests that if this
10 Court determines that a fee award is appropriate, that it be limited to \$3,215 to reflect the
11 amount of donations pledged toward Mr. Andrejev's legal expenses.

12 **III. AWARDING FEES TO PLAINTIFF IN THIS MATTER WOULD**
13 **DETER OTHERS FROM RAISING VALID DEFENSES TO**
INJUNCTIONS AGAINST HARASSMENT LIKE THIS ONE.

14 This Court should deny the Motion for Fees for the further reason that a fee award
15 would deter others from challenging injunctions based on speech about third-party public
16 figures – or even making statements about issues of public concern in the first place.²

17 As the Court knows, this is not a typical injunction against harassment case. It
18 occurs against the backdrop of the highly publicized and controversial prosecution of Ms.
19 Owens for allegedly perjuring herself, falsifying evidence and committing other felonies
20 in pursuing paternity claims against men including Clayton Echard, a former contestant on
21 the reality television show "The Bachelor." Ms. Owens' counsel also has made repeated
22 statements about this matter online. *See, e.g.,* David Gingras, *The IAH Judgment – Owens*
23 *v. Andrejev*, Gingras Law Office, PLLC (Feb. 26, 2026), [https://gingraslaw.com/the-iah-](https://gingraslaw.com/the-iah-judgment-owens-v-andrejev/)
24 [judgment-owens-v-andrejev/](https://gingraslaw.com/the-iah-judgment-owens-v-andrejev/). Thus, this case has far more potential to discourage others
25 from exercising their rights than most others.

26 ² Ms. Owens does not address this consideration in her Motion except to say that "[a]ny
27 award of fees will always have a deterrent effect on any party taking or challenging a
28 position." Mot. for Fees at 2. But Plaintiff's minimal attention to this third factor misses
the point entirely, as this section of the Response explains.

1 The U.S. Supreme Court, in a recent case cited in both parties’ briefs, explained
2 why courts must be cautious not to chill the “uninhibited, robust, and wide-open debate
3 that the First Amendment is intended to protect” in punishing unprotected speech such as
4 true threats or harassment. *Counterman v. Colorado*, 600 U.S. 66, 78 (2023) (citation
5 omitted). As the Supreme Court observed:

6 Prohibitions on speech have the potential to chill, or deter, speech outside
7 their boundaries. A speaker may be unsure about the side of a line on which
8 his speech falls. Or he may worry that the legal system will err, and count
9 speech that is permissible as instead not. . . Or he may simply be concerned
about the expense of becoming entangled in the legal system. The result is
“self-censorship” of speech that could not be proscribed—a “cautious and
restrictive exercise” of First Amendment freedoms.

10 *Id.* at 75 (citations omitted). The Arizona Supreme Court, too, has noted in the defamation
11 context that courts must tread carefully to avoid chilling “important, even if repugnant,”
12 speech about issues of public concern. *Rogers v. Mroz*, 252 Ariz. 335, 344 ¶ 41 (2022)
13 (“[I]n public debate we must tolerate insulting, and even outrageous, speech in order to
14 provide adequate breathing space to the freedoms protected by the First Amendment.”)
15 (cleaned up).

16 Although this Court has determined that Mr. Andrejev’s speech was not protected
17 by the First Amendment, a fee award here would discourage others from challenging
18 injunctions based on their speech that, while offensive, is nevertheless constitutionally
19 protected. This chilling effect would be especially acute for injunctions against harassment
20 based on speech posted online regarding controversial figures in the public eye such as Ms.
21 Owens and would chill that type of speech even when it does not constitute proscribed
22 harassment.

23 Because a fee award here would discourage people from exercising both their First
24 Amendment rights and their statutory right to challenge injunctions against harassment, the
25 third element of Rule 39(b) counsels *against* awarding Ms. Owens any fees in this case.

26 ///

27 ///

IV. REQUIRING MR. ANDREJEV TO PAY FEES FOR MS. OWENS' FALSE CRIMINAL ACCUSATIONS AGAINST HIM WOULD BE INEQUITABLE.

Finally, this Court should deny the Motion for Fees because it seeks to require Mr. Andrejev to pay fees incurred to seek a referral for criminal prosecution based on false accusations of perjury and felony harassment.

To recap, in her Response to the Motion to Quash, Ms. Owens accused Mr. Andrejev of perjury for stating – truthfully – that statements she attributed to Mr. Andrejev in a specific video do not appear in the transcript of that video. *See* Resp. to Mot. to Quash at 8-11; *see also* Reply in Support of Mot. to Quash at 2-3 (explaining why accusation of perjury is false). Ms. Owens sought a criminal referral for that statement as well as for her false accusation that Mr. Andrejev committed felony harassment for showing a copy of the Petition for Injunction in an online video, comparing that to a case in which a defendant had shown online a copy of a domestic violence protective order with the victim’s address visible. Resp. to Mot. to Quash at 13. The Injunction does not include Ms. Owens’ address and the video displaying this public court record did not violate the Injunction. Reply in Support of Mot. to Quash at 3.

This Court may reduce a fee award to account for unsuccessful arguments made by the prevailing party. *Schweiger v. China Doll Rest.*, 138 Ariz. 183, 188-89 (App. 1983). Here, these arguments were not only unsuccessful, they were also accusations of *criminal* conduct that were contradicted by facts stated in Ms. Owens' own brief. Mr. Andrejev respectfully submits that Plaintiff's fee request should be denied for this reason as well.

Conclusion

For the foregoing reasons, the Court should deny Plaintiff's Motion for Fees/Costs as a matter of law. In the alternative, the amount requested by Plaintiff should be substantially reduced to minimize a windfall recovery for Plaintiff's counsel at the expense of a party for whom payment would present an extreme hardship.

1 DATED this 13th day of March, 2026.

2
3 Respectfully submitted,

4 BALLARD SPAHR LLP

5
6 By: /s/ Matthew E. Kelley

7 Matthew E. Kelley

8 
9 Phoenix, AZ 85004-2555

10 *Attorneys for Defendant Robert Andrejev*

Certificate of Service

I hereby certify that on this 13th day of March, 2026, the foregoing document was sent for personal delivery to the following:

Commissioner Lindsey Coates
East Court Building
Room 514

Phoenix, AZ 85003

I certify that on this 13th day of March, 2026, the foregoing document was filed with the Clerk of Superior Court, Maricopa County, and served via email on the following:

David S. Gingras
Gingras Law Office, PLLC

Phoenix, AZ

Attorney for Plaintiff

/s/ Christina M. Kinsey