

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

**ORDER IN RE:
MOTION FOR
PARTIAL
JUDGMENT ON THE
PLEADINGS**

**[State Bar File Nos. 24-
1692, 24-1826, 24-2483, 24-
2819, 24-3080 and 25-1230]**

FILED APRIL 14, 2026

The Presiding Disciplinary Judge (“PDJ”) has considered the State Bar’s Motion for Partial Judgment on the Pleadings (“Motion”) filed March 9, 2026; the State Bar’s Notice of Errata filed March 9, 2026; the Respondent’s Motion for Leave to Exceed Page Limits (“Motion to Exceed Page Limits”) filed March 18, 2026; the Respondent’s Response to State Bar’s Motion for Partial Judgment on the Pleadings (“Response”) filed March 18, 2026; Respondent’s Declaration of David S. Gingras in Support of His Response to the State Bar’s Motion for Partial Judgment on the Pleadings (“Declaration”) filed March 18, 2026; Respondent’s Request for Judicial Notice (“Request”) filed March 18, 2026; the Reply to State Bar’s Motion for Judgment on Pleadings (“Reply”) filed March 23, 2026; and Respondent’s Notice of Filing Supplement Authority filed March 31, 2026.

IT IS ORDERED granting the Motion to Exceed Page Limits.

IT IS FURTHER ORDERED, to the extent Mr. Gingras’ request is for the PDJ to take judicial notice of the existence of various pleadings and/or documents having been filed in the identified Superior Court paternity

matter for purposes of considering the Motion addressed herein, granting the Request.

Turning to the Motion, Response and Reply. In the Motion, the State Bar seeks judgment on a portion of the pleadings, pursuant to Ariz. R. Civ. P. 12(c) as incorporated into disciplinary proceedings by Ariz. R. Sup. Ct. 48(b), as to the Amended Complaint filed February 25, 2026 (“Complaint”) Count One allegations, as follows:

I. Respondent violated Judge Mata’s February 21, 2024 order in violation of Rule 42, Ariz. R. Sup. Ct., ER 3.4(c), 3.6(a), 4.4(a), and Rule 54(c), Ariz. R. Sup. Ct.; and

II. Respondent’s comments about Judge Mata were made in violation of Rule 41(b)(3) and (7), and Rule 42, Ariz. R. Sup. Ct., ER 4.4(a), 8.2(a), and 8.4(d).

The Respondent has filed a Response that objects to a Judgment on the Pleadings for numerous reasons.

ANALYSIS

General consideration of Motions for Judgment on the Pleadings:

[Regarding] a motion for judgment on the pleadings the court may consider as true such allegations of the complaint as are admitted by the answer. If these allegations set forth a claim for relief and the answer fails to assert a legally sufficient defense plaintiff is entitled to judgment. *Pac. Fire Rating Bureau v. Ins. Co. of N. Am.*, 83 Ariz. 369, 376, 321 P.2d 1030, 1035 (1958) [citing *Walker v. Estavillo*, 73 Ariz. 211, 240 P.2d 173 (1952)].¹

¹ The PDJ has considered Mr. Gingras’ citation of the unpublished federal decision, *Delta Zee Sols. LLC v. Britannia Tucson LLC*, 2026 WL 71411, *3 (D. Ariz. 2026).

In Discipline matters:

The PDJ agrees with the State Bar that, 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 PDJ considers the Complaint and the Respondent's Amended Answer filed on March 6, 2026 ("Answer") in its review of the Motion, and finds,

I. Count One:

State Bar has alleged **Respondent violated Judge Mata's February 21, 2024 order in violation of:**

Rule 42, Ariz. R. Sup. Ct.,

- ER 3.4 (c)-

ER 3.4 is captioned: Fairness to Opposing Party and Counsel

It states, "A lawyer shall not: (c) **knowingly** disobey an obligation under the rules of a tribunal except for an open refusal based on an assertion that no valid obligation exists." Emphasis added.

- ER 3.6(a)-

ER 3.6 is captioned: Trial Publicity

It states in (a),

A lawyer who is participating in [l]itigation of a matter shall not make an extrajudicial statement that the lawyer **knows** or reasonably should know will be disseminated by means of public communication and will have a substantial likelihood of materially prejudicing an adjudicative proceeding in the matter. (Empasis added.)

- ER 4.4(a)-

ER 4.4 is captioned: Respect for Rights of Others

It states in (a),

In representing a client, a lawyer shall not use

means that have no substantial purpose other than to embarrass, delay, or burden any other person, or use methods of obtaining evidence that violate the legal rights of such a person.

- Rule 54(c), Ariz. R. Sup. Ct.-

Rule 54 is captioned: Grounds for Discipline

Subsection(c) states:

Knowing Violation of Any Rule or Any Order of the Court. This includes court orders issuing from a state, tribe, territory or district of the United States, including child support orders. (Emphasis added.)

The State Bar's Motion points to the following paragraphs of the Complaint and the Respondent's Answer as facts that satisfy the above allegations:

Paragraph 9: Respondent admits that the Maricopa County Superior Court case of *In the Matter of Owens and Echard*, FC2023-052114 was filed on August 1, 2023 (hereinafter referred to as "the paternity case").

Paragraphs 24-25: Respondent admits that he was hired by Laura Owens in March 2024 and filed a notice of appearance in the paternity case on her behalf on March 25, 2024.

Paragraph 41: Respondent admits that he knew of Judge Mata's February 21, 2024 [order] in the paternity case stating, among other things, "that no party shall disclose outside of themselves any medical or other documentation (exhibits, medical records, etc.) disclosed between the parties".

Paragraphs 42-43: Respondent admits that he subsequently filed a motion in the paternity case, attaching a declaration dated April 1, 2024 which was signed by him and included three medical records.

Paragraph 44: Respondent admits that his April 1, 2024 declaration included references to the three medical records which were attached to the motion.

Paragraph 47: Respondent admits that he posted a Sonora Quest Laboratories' medical record dated October 16, 2023, on his law office blog on April 4, 2024.

Paragraph 49: Respondent admits that he was immediately informed of the violation of Judge Mata's February 21, 2024 order.

Paragraph 52: Respondent admits that he subsequently posted a portion of another medical report on his law office blog.

Paragraphs 53, 55-58: Respondent admits filing a responsive document in the paternity case, on April 26, 2024, which included medical records and summary portions of expert medical reports which were prepared for the opposing party.

Paragraph 59: Respondent admits that he posted the April 26, 2024 response as well as attached medical information and documents on his publicly accessible online X (formerly Twitter) account, his law firm's website and/or other social media on April 27, 2024.

Turning to Mr. Gingras' Response, the PDJ agrees with Mr. Gingras, if there are issues of fact properly raised by the Answer, specific to the alleged ethic violations, the Motion should be denied.

In the Response, Mr. Gingras argues that the portion of Judge Mata's February 21, 2024 order listed in paragraph 41 conflicts with other orders such that it failed to provide Mr. Gingras with notice regarding the scope of the prohibited conduct. (*See* Response at page 7.) The PDJ considered whether such provides a valid defense to the filing in the docket medical records and the posting of such that Mr. Gingras admitted in his Response. The Answer nor Mr. Gingras' Response reflect any indication that he took any steps to clarify the language in paragraph 41, even after opposing counsel sent an email indicating that Mr. Gingras' posting was in violation of the February 21, 2024 order as reflected in paragraph 49. Such is problematic with regard to Mr. Gingras' ethical duties. However, Mr. Gingras points to filings made by opposing counsel after the issuance of the February 21, 2024 order that at a minimum present colorable claim with regard to Mr. Gingras' alleged mental state.

Therefore,

IT IS ORDERED the Motion is denied with regard to the above listed allegations.

II. Count One:

State Bar has alleged, **Respondent's disparaging comments about Judge Mata violated:**

Rule 41, Ariz. R. Sup. Ct.,

Rule 41(b) is captioned, Duties and Obligations

It states, The duties and obligations of members, including affiliate members, shall be:

(3) To maintain the respect due to courts of justice and judicial officers, [and]

(7) To avoid engaging in unprofessional conduct and to advance no fact prejudicial to the honor or reputation of a party or a witness unless required by the duties to a client or the tribunal.

Rule 42, Ariz. R. Sup. Ct.,

- ER 4.4 (a)-

ER 4.4 is captioned: Respect for Rights of Others

It states in (a), It is professional misconduct for a lawyer to:

In representing a client, a lawyer shall not use means that have no substantial purpose other than to embarrass, delay, or burden any other person, or use methods of obtaining evidence that violate the legal rights of such a person.

- ER 8.2(a)-

ER 8.2 is captioned: Judicial and Legal Officials

It states in (a),

A lawyer shall not make a statement that the lawyer knows to be false or with reckless disregard as to its truth or falsity concerning the qualifications or integrity of a judge, adjudicatory officer or public legal officer, or of a candidate for election or appointment to judicial or legal office.

- ER 8.4(d)-

ER 8.4 is captioned: Misconduct

It states,

It is professional misconduct for a lawyer to:

(d) engage in conduct that is prejudicial to the administration of justice;

The State Bar's Motion points to the following paragraphs of the Complaint and the Respondent's Answer as facts that satisfy the above allegations:

Paragraph 101-103, 105-107: Respondent admits making the cited statements regarding Judge Mata and the public, "the contents of which speak for themselves."

In his [Answer] "defense", Respondent affirmatively alleges that he believes(d) in the truth of the statements and believes that the statements constitute "an opinion protected by the First Amendment of the United States Constitution and by the Arizona Constitution."

The State Bar then argued that, "Respondent's belief is disproven by, among other cases, the following specific to attorney discipline:

- *In re: Matter of James Lawrence Riley*, 142 Ariz. 604, 691 P.2d 695 (1984).
- *In re: Meyer L. Ziman*, SB-12-0037-AP (PDJ 2011-9067); see also *In re: Meyer L. Ziman*, 174 Ariz. 61, 847 P.2d 106 (1993).
- *In re: Douglas B. Levy*, SB-21-0085-AP (PDJ 2019-9044).
- *In re: Vladimir Gagic*, SB-22-0085-AP (PDJ 2022-9050).

"While Respondent unequivocally admits making unprofessional and disparaging remarks about Judge Mata, Respondent again denies the conclusion that he violated the cited ethical rules." See Motion page 6-7.

Turning to Mr. Gingras' Response,

Mr. Gingras does not challenge the State Bar's indication of his admissions regarding paragraphs 101-103, 105-107 of the Complaint. Rather, he focuses his Response specifically to what he describes as speech "outside of the courtroom," (making no distinction between statements made in motions before the court and those on social media).

Regardless, Mr. Gingras seems to argue that *Gentile v. State Bar of Nevada*, 501 U.S. 1030, 111 S. Ct. 2720, 115 L. Ed. 2d 888 (1991), is controlling and supports his proposition "that disciplinary rules governing the legal profession **cannot punish activity protected by the First Amendment**, and

that First Amendment protection survives even when the attorney violates a disciplinary rule he swore to obey when admitted to the practice of law”² with regard to “free speech”³ in the instant case. The PDJ disagrees. In the *Gentile* case, the subject lawyer held a press conference in which the Nevada court found, “he kn[e]w or reasonably should know[n to] have ‘substantial likelihood of materially prejudicing’ [an] adjudicative proceeding.” The U.S. Supreme Court found that the Nevada rule was void for vagueness. The Court went on to state, “Moreover, this Court's decisions dealing with a lawyer's First Amendment right to solicit business and advertise have not suggested that lawyers are protected to the same extent as those engaged in other businesses, but have balanced the State's interest in regulating a specialized profession against a lawyer's First Amendment interest in the kind of speech at issue. *See, e.g., Bates v. State Bar of Arizona*, 433 U.S. 350, 97 S.Ct. 2691, 53 L.Ed.2d 810. Pp. 2740–2745.”

Next Mr. Gingras argues that the Arizona Supreme Court has “not published any decisions directly on this specific issue in the last 25 years.”⁴ The PDJ disagrees and agrees with the portions of the cases cited above as provided in the State Bar’s Reply. *See Reply*, pages 5-6. (*See also further discussion infra*. regarding cases such as *In re Martinez*.)

As well, Mr. Gingras asks the PDJ to consider other jurisdictions findings regarding his proposition, citing *In re Green*, 11 P.3d 1078, 1083 (Colo. 2000). In the *In re Green* case out of Colorado, the subject lawyer’s criticism was “**based upon fully disclosed and uncontested facts**, and thus, attorney could not be disciplined for making the statements.” Emphasis added. Even if such could be considered as persuasive authority in the instant matter, other courts have declined to follow *In re Green* decision as well.⁵ For example, in *Matter of Marshall*, 2023-NMSC-006, 528 P.3d 653

² Response, page 16.

³ The PDJ notes that Mr. Gingras has failed to identify any legal basis under which his specific written statements would qualify as protected speech. It is a well settled legal principle that constitutional protections on speech are extended to all speech. In *State v. Brown*, 207 Ariz. 231,234 , ¶ 8 (App. 2004), the Arizona Court of Appeals noted that to “resort to **epithets** or personal abuse is not in any proper sense communication of information or opinion safeguarded by the Constitution.” *Citing Cantwell v. Connecticut*, 310 U.S. 296, 309–10, 60 S.Ct. 900, 906, 84 L.Ed. 1213, 1221 (1940); *see also Chaplinsky v. New Hampshire*, 315 U.S. 568, 572, 62 S.Ct. 766, 769, 86 L.Ed. 1031, 1035 (1942); *State v. Starsky*, 106 Ariz. 329, 332, 475 P.2d 943, 946 (1970); *State v. Hagen*, 27 Ariz.App. 722, 725, 558 P.2d 750, 753 (1976). Emphasis added.

⁴ *Id.*

⁵ Additionally, Mr. Gingras submitted a newly decided U.S. Supreme Court case regarding a law banning certain types of therapy, *Chiles v. Salzar* (full citation was not provided). For multiple reasons, this is not

(March 2023), the New Mexico Supreme Court,

[used] an objective knowledge standard applied when determining if attorney's statements about integrity of judge violated professional conduct rule; after-acquired evidence was immaterial in case involving attorney who made unfounded statements about integrity of judge presiding over his case; attorney did not have objectively reasonable factual basis to support his allegations of bias and lack of candor against judge; attorney filed "frivolous pleadings," in violation of professional conduct rule, since facts and circumstances as they existed at time attorney filed his pleadings did not support his allegations of bias against judge; attorney engaged in conduct prejudicial to administration of justice, in violation of professional conduct rule, by making statements that undermined public confidence in the judiciary.

Given Mr. Gingras' stated proposition regarding his speech "outside of the courtroom," the PDJ notes that a portion of Mr. Gingras' written statements at issue here were in a court pleading in a case in which he represented a client. Unprofessional conduct during the practice of law may result in the imposition of discipline pursuant to Rule 41(b)(7), Ariz. R. Sup. Ct. Rule 41, cmt 1. Unprofessional conduct includes "substantial or repeated violations of the Oath of Admission to the Bar or the Lawyer's Creed of Professionalism of the State Bar of Arizona." Rule 41(a).

The Oath of Admission to the Bar ("the Oath") provides, in pertinent part, that lawyers: (1) "will treat the courts of justice and judicial officers with respect;" (2) "will avoid engaging in unprofessional conduct;" (3) "will not advance any fact prejudicial to the honor or reputation of a party or witness unless required by [their] duties to [their] client or the tribunal;" and (4) "will at all times faithfully and diligently adhere to the rules of professional

controlling or persuasive authority.

responsibility and A Lawyer's Creed of Professionalism of the State Bar of Arizona."

The Creed of Professionalism of the State Bar of Arizona ("the Creed") requires lawyers to conduct themselves in accordance with the Creed when dealing with clients, opposing parties, opposing counsel, tribunals, and the general public. Lawyers must be "courteous and civil, both in oral and written communication." In negotiations, depositions, and other proceedings, they are to conduct themselves "with dignity" and not "be rude or disrespectful."

Our Supreme Court has found within the last six years that Rule 41(b)(7) "is not merely aspirational." *In re Martinez*, 248 Ariz. 458, 465 (2020) (interpreting former Rule 41(g)). Diligent and competent representation of a client does not require or justify denigrating, disrespectful, belittling language. *See, e.g., In re Bemis*, 189 Ariz. 119, 122 (1997) ("Respondent says that he would not have behaved as he did if the judge had acted properly . . . Regardless of respondent's belief that his actions were necessary to protect the clients' interests, his behavior was inexcusable."); *The Florida Bar v. Norkin*, 132 So. 2d 77, 92-93 (Fla. 2013) ("Attorneys should focus on the substance of their cases, treating judges and opposing counsel with civility, rather than trying to prevail by being insolent toward judges and purposefully offensive toward opposing counsel.").

Further the PDJ finds that Mr. Gingras has not asserted that the language quoted in the Complaint that has been conceded was objectively and reasonably necessary to advance his client's matter. Assuming arguendo he had effectively done so, the U.S. Supreme Court has indicated, in *Nix v. Whiteside*, 106 S. Ct 988, 995 (1986), "an attorney's ethical duty to advance the interests of his client is limited by an equally solemn duty to comply with the law and standards of professional conduct." As well, our Supreme Court has found in *Bemis* that disagreement with legal rulings does not justify vituperative attacks on the judiciary:

The court is most concerned with respondent's refusal to accept that his conduct cannot be justified by any perceived unfairness in the judges' rulings. As the commission noted, "this matter was the result

of [his] misguided, overzealous efforts to obtain a successful result for his clients.” Respondent must realize that “[z]ealous advocacy has limits. It clearly does not justify ethical breaches.” 189 Ariz. at 122.

The PDJ finds that Mr. Gingras has admitted the conduct described in paragraphs 101-103, 105-107 and has failed to present a valid defense with regard to findings of violation of Rule 41(b)(3) and (7), and Rule 42, Ariz. R. Sup. Ct., ER 4.4(a), 8.2(a), and 8.4(d). These findings shall proceed to an Aggravation and Mitigation proceeding at the appropriate time.

Therefore,

IT IS ORDERED granting the State Bar’s Motion for Judgement on the Pleadings, in part, with regard to Paragraphs 101-103, 105-107 of Count One of the Complaint, finding Respondent’s admitted comments, about Judge Mata provided therein, violate Rule 41(b)(3) and (7), and Rule 42, Ariz. R. Sup. Ct., ER 4.4(a), ER 8.2(a), and ER 8.4(d).

IT IS FURTHER ORDER that the State Bar file the appropriate pleading or Notice in the record within 5 calendar days of this order indicating whether the State Bar intends to proceed on any outstanding allegations in the Complaint or moves to dismiss the outstanding allegations, requesting that the evidentiary currently set be vacated and for the OPDJ to schedule the matter for an Aggravation and Mitigation hearing on the admitted violations only.

DATED this 14th day of April, 2026.

Lisa A. VandenBerg
Hon. Lisa A. VandenBerg
Presiding Disciplinary Judge

Please note, an unfinished version of this ruling was mistakenly sent via email to the parties on April 8, 2026. It was withdrawn as soon as the error was identified. The PDJ and the OPDJ apologize for any confusion that said email may have caused either party, the above is the final and official ruling on the pleadings referenced.

Copy of the foregoing emailed
this 14th day of April, 2026, to:

David S. Gingras (Respondent)

[REDACTED]

James D. Lee (Senior Bar Counsel)

Craig Henley (Senior Bar Counsel)

[REDACTED]

by: CLopez