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** **[SECOND] MOTION TO OBTAIN DISCOVERY BEYOND TIER LIMITS**

A few days ago, on September 17, Respondent filed a motion seeking two things: 1.) an order changing the discovery tier in this matter from tier 1 to tier 3, and 2.) an order requiring the State Bar to fully answer written discovery requests served by Respondent on March 24, 2026 (which the Bar refused to answer based on its assertion the discovery exceeded the limits of tier 1).

After that motion was filed, on September 22, 2026, Respondent served the State Bar with additional *proposed* written discovery.[1] That discovery contained a total of seven interrogatories seeking basic information about the Bar's allegations and contentions in this case.

Once again, the State Bar has unfortunately refused to voluntarily respond to this new discovery, solely based on the tier 1 discovery designation (not because the Bar asserted the discovery was not relevant, excessive, disproportional to the needs of this case, or otherwise improper). Accordingly, Respondent respectfully moves

[1] Civil Procedure Rule 26.2(g)(1)(A) requires a party seeking discovery beyond an existing tier limit to first meet and confer with the opposing party to request voluntary compliance and, if the opposing party refuses, the party seeking relief must bring "a motion for discovery beyond tier limits setting forth why that discovery is necessary and proportional under Rule 26(b)(1), attaching that discovery …." (emphasis added).

the PDJ for an order requiring the Bar to respond to these simple requests, a copy of which are attached hereto as Exhibit A.

As the PDJ knows:

> Because state bar disciplinary proceedings are adversarial and quasi-criminal in nature, ... the requirements of procedural due process must be met. These requirements include fair notice of the charges made and opportunity for explanation and defense.

Matter of Sponsel, 259 Ariz. 369, ¶ 81, 566 P.3d 960, 980 ¶ 81 (Ariz. 2025) (emphasis added) (cleaned up) (quoting *In re Brady*, 186 Ariz. 370, 373, 923 P.2d 836, 839 (Ariz. 1996).

Here, the seven interrogatories at issue seek nothing more than basic information regarding the State Bar's core allegations. For example, one key issue in this case involves the Bar's claim that Respondent *knowingly* offered false testimony and/or evidence during *Owens v. Echard*. *See* Amended Complaint ¶ 177. Respondent has flatly and unequivocally denied that false allegation.

Because this factual issue is contested, the first interrogatory in Exhibit A asks the State Bar to identify evidence it has to support the allegations in ¶ 177 (among others). Respondent's position is the only truthful answer to that interrogatory is: "None." But assuming the State Bar believes it *does* have evidence to support the allegations in ¶ 177, clearly, as a matter of due process, the Bar is obligated to provide that evidence to Respondent (on the other hand, if the Bar has no evidence to support that claim or any other, the outcome will be the Bar will fail to meet its burden under Supreme Court Rule 58(j)(3)).

Another dispute in this case is the Bar's allegation that Respondent "failed to diligently investigate" the facts of *Owens v. Echard*. That allegation (in conclusory form) is found in ¶ 3 of the Amended Complaint which alleges Respondent: "failed to diligently investigate and research relevant facts, [and] pursued claims[2] that were without merit …."A similar conclusory allegation is set forth in ¶ 18 of the Amended Complaint; "Respondent failed to diligently investigate and/or research Owens' allegations to determine whether her statements to him, opposing counsel and the court were truthful …"

Despite making these serious, but entirely conclusory allegations, the Bar's Complaint contains virtually no detail explaining exactly *what* Respondent failed to do that a reasonable and diligent lawyer could or should or would have done. To shed light on that issue, the second interrogatory asks the Bar to provide details regarding the specific failures it claims occurred here, and what evidence the Bar has to support those positions.

Likewise, the Bar has also accused Respondent of violating ER 3.6 by "making extrajudicial statements that he knew or reasonably should have known would be disseminated by means of public communication and that would have a substantial likelihood of materially prejudicing the paternity case …." Amend.Comp. ¶ 64. Again, Respondent's Answer denied those allegations.

[2] Ms. Owens withdrew her pregnancy claim months before Respondent first appeared in *Owens v. Echard*. Respondent pursued no other "claims" on Ms. Owens' behalf. As such, the exact nature of the Bar's allegations in ¶ 3 are unclear since they appear to directly contradict the docket in *Owens*.

Because this is a contested issue of fact, the fifth interrogatory in Exhibit A simply asks the Bar to identify specific statements made by Respondent that are alleged to violate ER 3.6. The interrogatory then asked the Bar to explain, *inter alia*, "the nature of the material prejudice allegedly threatened or caused."[3]

That question is particularly appropriate here given the extremely narrow reach of ER 3.6 and the recognition set forth in comment 7 to that rule:

> [E]xtrajudicial statements that might otherwise raise a question under this Rule may be permissible when they are made in response to statements made publicly by another party, another party's lawyer, or third persons, where a reasonable lawyer would believe a public response is required in order to avoid prejudice to the lawyer's client. When prejudicial statements have been publicly made by others, responsive statements may have the salutary effect of lessening any resulting adverse impact on the adjudicative proceeding. Such responsive statements should be limited to contain only such information as is necessary to mitigate undue prejudice created by the statements made by others. (emphasis added).

Here, as the PDJ knows, the *Owens v. Echard* case received an exceptionally high degree of attention on social media. At least part of that attention was caused by Mr. Echard's counsel (Gregg Woodnick) issuing a press release in early March 2024 (before Respondent joined the case) which accused Ms. Owens of fraud. In addition to Mr. Woodnick's prejudicial public statements, multiple third parties also

[3] The *Owens* case involved a bench trial in which the trial judge was ethically forbidden from conducting extra-judicial research or basing her decision on social media comments made by Respondent or anyone else. Given that fact, the exact nature of the State Bar's "prejudice" argument is unclear. In other words, if the fact finder—Judge Mata—was forbidden from conducting extra-judicial research or considering statements not admitted in evidence, how could Respondent's extra-judicial statements about the case have had any effect whatsoever on the outcome?

made extremely prejudicial statements about the case, which Respondent reasonably believed made responsive statements "necessary to mitigate undue prejudice created by the statements made by others."

Under these highly-fact specific circumstances, the information requested by the fifth interrogatory is entirely appropriate. It simply asks the Bar to identify each specific extra-judicial statement Respondent made in violation of ER 3.6, and then explain how each statement was likely to cause prejudice to the outcome of a bench trial in which the trial judge could not have ethically relied upon (or even been aware of) such statements.

Clearly, the Bar may not *want* to answer that question, presumably because doing so would reveal the ER 3.6 claim has no basis whatsoever. That truth requires the Bar to answer that question, and the six others set forth in Exhibit A.

The Bar's existing disclosures do not answer these interrogatories (which is why they were propounded). Identifying general potential witnesses and documents does not tell Respondent which particular statements, omissions, or arguments the Bar contends violated each ethical rule, when it claims Respondent knew particular evidence was false, or what facts support those contentions. The requested answers are necessary for Respondent to prepare a defense to the charges actually being pursued. The burden of answering is also extremely modest: to prevail, the Bar must already identify and prove the factual basis for each alleged violation by clear and convincing evidence. These interrogatories simply ask the Bar to explain those contentions and identify the evidence on which it intends to rely.

Respectfully submitted Sept. 23, 2026.

David S. Gingras, #021097
Gingras Law Office, PLLC
[redacted]
Phoenix, AZ 85044
Tel.: [redacted]
[redacted]
Respondent

CERTIFICATE OF GOOD FAITH

Pursuant to Supreme Court Rule 58(f)(3) and Civil Procedure Rule 26.2(g)(1)(A), Respondent certifies that he made a good faith effort to resolve this matter with State Bar counsel prior to filing the instant notice and that the Bar refused to agree to any of Respondent's requests.

/s/ David S. Gingras

CERTIFICATE OF SERVICE

Original filed and COPY of the foregoing emailed
September 23, 2026 to:
Jim Lee
[redacted]
Craig Henley
[redacted]
Senior Bar Counsel

Exhibit A

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** **RESPONDENT'S [PROPOSED] SECOND SET OF DISCOVERY REQUESTS**

TO: State Bar of Arizona
c/o James Lee, Esq.; Craig Henley, Esq.
[redacted]
Phoenix, AZ 85016-6266

Pursuant to Ariz. Sup. Ct. R. 58(f), Respondent David S. Gingras ("Respondent") propounds the following request for production, admissions and/or interrogatories, each of which is to be answered fully and separately, in writing, under oath and within thirty (30) days. These interrogatories are continuing interrogatories under Ariz. R. Civ. P. 26(g), and all your answers must be supplemented in accordance with Rule 26(g).

INSTRUCTIONS

A. All information is to be divulged which is in the possession, custody or control of each individual or corporate party, their attorneys, insurance claim representatives, investigators, agents, employees or other representatives, including all information reasonably available to them.

B. Where an individual interrogatory calls for an answer, which involves more than one part or sub-part, each part of the answer should be set forth separately so that it is clearly understandable and responsive to the respective sub-part.

C. The terms “writing” or “written” are intended to include but not necessarily be limited to the following: other means of recording upon any tangible thing any form of communications, including letters, words, pictures, sounds or symbols or combinations thereof; and it further includes any oral communication later reduced to a writing or confirmed by a letter.

D. The terms “document” or “documents” are intended to include but not necessarily be limited to the following: files, notes, memoranda, correspondence or letters of any kind, intra-departmental or office communications, written statements or reports, either signed or unsigned, records or taped interviews or statements, maps, plats, photographs, moving or still pictures, diagrams, plans, drawings, specifications, measurements, or other descriptions, agreements, contracts, records, and computer files in any format and printouts thereof. The term “document” shall include both originals and all copies which are not identical with the original or which contain any commentary or notation that does not appear on the original.

E. The term “investigation” means any investigation whether conducted by an employee of any governmental entity or any private person, including representatives of any insurance company or an attorney. It is intended to include any inquiry into the facts underlying the basis of the claims and defenses presented herein, and any communication with any person thought to have knowledge about the facts. However, it is not intended to include any communication to which a privilege is claimed between the answering party and its attorney.

F. If you contend that the answer to any interrogatory is privileged, in whole or in part, or if you object to any interrogatory, in whole or in part, state the reasons for such objection and identify each person having knowledge of the factual basis, if any, on which the privilege is asserted.

G. When an interrogatory requests that you “identify,” or state the “identity” of a person, you are requested to provide his or her:

1. Full name;
2. Present or last known address or, if unknown, the last known whereabouts;

3. Phone number;
4. Present employer's name and address;
5. Occupational position or classification.

H. Unless otherwise directed, when an interrogatory asks that you "identify" a document or writing, please state:

1. Its nature (e.g., letter, memorandum, report, etc.);
2. Its title, if any;
3. The date it was prepared;
4. The date it was sent;
5. The date it was received;
6. The identity, as defined above, or person(s) who:
   a. Prepared it;
   b. Participated in any way in its preparation; or
   c. Signed it;
7. A statement of its subject matter; and
8. The identity, as defined above, of the person who has custody of it.

I. In the event that your answer to an interrogatory is "not applicable" or any similar phrase or answer, explain in detail why that interrogatory is not applicable.

J. In the event that your answer to any interrogatory is "don't know" or "unknown," or any similar phrase or answer, explain in detail all efforts made by the named party or its attorneys or representatives to obtain the answer to that interrogatory.

K. These interrogatories should be deemed continuing in nature. It is requested that you update your answers to interrogatories as soon as possible after new information is obtained to reflect any information obtained after the interrogatories are initially answered to include all information up to and including the date of the trial.

L. Where an interrogatory requests that you provide information concerning or explain a witness may testify about, that interrogatory is intended to elicit a summary of the information that any witness may have provided to you of whether they may testify at trial.

M. References in these Interrogatories to "this case" or "this matter" are to the litigation currently pending in this Court under the above-styled caption.

INTERROGATORIES

1.) Identify each specific item of testimony, evidence, or factual representation made or presented by Laura Owens that the State Bar contends Respondent knew was false at the time Respondent presented, offered, relied upon, or permitted it to be presented during *Owens v. Echard*, and, for each such item, state:

(a) the precise testimony, evidence, or representation alleged to have been false;
(b) the date on which the State Bar contends Respondent first knew it was false;
(c) every fact upon which the State Bar relies to establish Respondent's knowledge of falsity as of that date; and
(d) identify each document, communication, or witness upon which the State Bar relies to establish such knowledge

2.) State each specific investigative act the State Bar contends Respondent reasonably should have undertaken concerning Laura Owens or the factual assertions at issue in *Owens v. Echard* but which Respondent failed to undertake, and for each such act:

(a) identify when the State Bar contends the investigation should have occurred;
(b) identify the information then available to Respondent that allegedly required that investigative step;
(c) explain how Respondent's failure to undertake that step violated the ethical rule(s) alleged in the Amended Complaint; and
(d) identify all evidence and witnesses supporting that contention.

3.) State whether the State Bar contends Michael Marraccini intended to testify at the June 10, 2024 trial in *Owens v. Echard* and, if so, identify all evidence supporting that contention, including the identity of every person from whom the State Bar obtained information concerning Marraccini's intention to testify and the substance of the information obtained.

4.) Prior to the trial in *Owens v. Echard*, Respondent alleges Mr. Marraccini's attorney told Respondent, in writing, that he was NOT going to testify at trial, and after the trial, Mr. Marraccini himself gave a recorded interview in which he stated: "I knew I wasn't going to be testifying [at the trial]."
Available at: https://youtu.be/nhdseYCE9WU?si=kNHCtDZmhbq4HxPQ&t=5804

Given those allegations, what evidence (if any) does the State Bar intend to offer showing that the statement by Mr. Marraccini's counsel confirming his intent not to testify at trial was false and/or that Mr. Marraccini's statement "I knew I wasn't going to be testifying [at the trial]" was false?

5.) Identify each statement or communication by Respondent that the State Bar contends created a substantial likelihood of materially prejudicing an adjudicative proceeding within the meaning of ER 3.6, and for each statement identify:

(a) the adjudicative proceeding allegedly threatened with prejudice;
(b) the nature of the material prejudice allegedly threatened or caused;
(c) every fact supporting the contention that such prejudice was substantially likely; and
(d) each witness and item of evidence supporting that contention.

6.) For each act or communication alleged to violate ER 4.4(a), identify every fact supporting the State Bar's contention that the act or communication had no substantial purpose other than to embarrass, delay, or burden another person, and identify the person allegedly embarrassed, delayed, or burdened, the nature of that embarrassment, delay, or burden, and all evidence supporting the State Bar's contention concerning Respondent's purpose.

7.) Identify each discrete claim, argument, or legal contention made by Respondent in the appeal of *Owens v. Echard* that the State Bar contends violated ER 3.1 and, for each, state:

(a) the factual or legal basis for the State Bar's contention that it lacked a nonfrivolous basis in law or fact;
(b) the authority existing when the argument was made that the State Bar contends rendered it frivolous;
(c) whether the State Bar contends Respondent knew the argument was frivolous when made and, if so, every fact supporting that contention; and
(d) all witnesses and evidence supporting that contention.

September 22, 2026.

David S. Gingras, #021097
Gingras Law Office, PLLC
Tel.: [redacted]
[redacted]
Respondent

CERTIFICATE OF SERVICE

COPY of the foregoing emailed
this 22 day of September 2026 to:
Jim Lee
[redacted]
Craig Henley
[redacted]
Senior Bar Counsel