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5 *Plaintiff*  
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7 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**

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9 **IN AND FOR THE COUNTY OF MARICOPA**

12 Eli Dalton-Webb, 13 14 Plaintiff 15 16 v. 17 18 INDUSTRIAL COMMISSION, et al., 19 20 Defendants 21	Case No. CV2025-035545  Assigned to: Hon. Michael Mandell  <b>Response to Defendant's Motion to Dismiss</b>
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23 **PROCEDURAL HISTORY**

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25 Plaintiff, on 1 October 2025 filed a Complaint for Special Action. On 12  
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27 December 2025, Defendant Industrial Commission filed an Answer to the Complaint.  
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29 On 6 April 2026, Plaintiff filed a Motion for Leave to Amend the Complaint (adding  
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31 new claims and asking for more relief, but not removing any claims). On 27 April  
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33 2026, Defendant files a Motion to Dismiss without filing any opposition to the  
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35 Motion for Leave to Amend the Complaint. On 12 May 2026, this Court construed  
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37 the Defendant's filing of a Motion to Dismiss without filing a Response to the Motion  
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39 for Leave to Amend the Complaint as an agreement by Parties to amend the  
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41 Complaint.  
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44 Plaintiff hereby responds to the Defendant's Motion to Dismiss, filed 27 April  
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46 2026.  
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**RESPONSE TO MOTION TO DISMISS**

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3 Defendant cites no basis, other than Rule 12(b)(6), for dismissal. There are  
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5 several problems with the Defendant’s Motion to Dismiss being based off of Rule  
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7 12(b)(6), including that they have already answered the complaint, dismissal is not  
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9 appropriate, and that this Court already explicitly stated that it wants to allow  
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11 evidence and will not enter any rulings based on purely conclusory statements.  
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14 “In determining if a complaint states a claim on which relief can be granted,  
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16 courts must assume the truth of all well-pleaded factual allegations and indulge all  
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18 reasonable inferences from those facts, but mere conclusory statements are  
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20 insufficient.” Coleman v. City of Mesa, 230 Ariz. 352  
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23 Firstly, the Defendant has already filed an Answer to the Complaint on 12  
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25 December 2025. The deadline has already passed for the Defendant to file a Motion  
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27 to Dismiss for the 1 October 2025 Complaint for Special Action. By the Defendant  
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29 filing an Answer to the Complaint, they were admitting that, if the Court assumed all  
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31 facts alleged are true and that the Court indulged all reasonable inferences, the  
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33 Complaint for Special Action survived. If the Defendant really believed that the facts  
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35 alleged and reasonable inferences could not be indulged in the Complaint for Special  
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37 Action, they should have filed a motion to dismiss several months ago.  
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40 The complaint has not materially changed in such a way that the Defendant  
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42 can explain why they believed a Rule 12(b)(6) would have failed when we were  
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44 litigating the initial Complaint, but now that we are litigating an Amended Complaint,  
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46 it is just now that they believe a Rule 12(b)(6) motion would succeed, and only now  
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1 they believe there are zero claims to be relieved. No claims were removed, but more  
2 claims were added. The Defendant does not even allege that there are new facts or  
3 circumstances that have arisen since their Answer to the Complaint to give this Court  
4 justification for a dismissal after an Answer. They only offer conclusory legal  
5 arguments, which have all been litigated in this matter in their Answer to the  
6 Complaint and their briefing on the matter in response to the Petition for Order to  
7 Show Cause and other briefing.  
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11 Because the Defendant waived a Rule 12(b)(6) dismissal by answering the  
12 complaint, the only thing the Defendant can move to dismiss, if they can at all, is for  
13 any *NEW* claims from the First Amended Complaint for Special Action that were not  
14 included in the initial Complaint. The problem is that the Defendant asks for a  
15 wholesale dismissal, and not for a partial dismissal, and does not address any of the  
16 newly added claims in the First Amended Complaint. It should be very clear to this  
17 Court and the Defendant what is different—the Plaintiff underlined and crossed out  
18 and color coded what changed between the initial Complaint and First Amended  
19 Complaint in his Motion for Leave to Amend the Complaint.  
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36 Secondly, dismissal is not appropriate. This case has already proceeded for  
37 evidentiary hearing multiple times and the Court has been very clear that it wants to  
38 allow the Parties to submit evidence. We're heading up on a scheduled evidentiary  
39 hearing, set to 28 August 2026. The Plaintiff and Defendant have already presented  
40 this Court with a plethora of legal arguments (or conclusory statements), and this  
41 Court has explicitly refused to enter any rulings until evidence has been submitted.  
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1 Plaintiff has already alleged facts—he’s submitted exhibits of his public records  
2 requests and requests to physically attend Industrial Commission hearings, alleged he  
3 submitted them, and alleged that the government has denied the requests. He has also  
4 indulged this Court as to his legal theories as to why the alleged facts lead to claim  
5 for relief. Some of these legal theories are novel and are worthy of being heard and  
6 decided on their merits. Because a Rule 12(b)(6) Motion to Dismiss requires the  
7 Court to assume the truth and indulge reasonable inferences, the alleged facts paired  
8 with theories that lead to liability are not subject to a Rule 12(b)(6) dismissal.  
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18 **DISMISSAL FOR INCORRECT RELIEF SOUGHT**  
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20 It appears that the Defendant is arguing that the Plaintiff is seeking the  
21 incorrect relief in this matter, which allegedly warrants wholesale dismissal. Firstly,  
22 this Court has non-discretionary special action jurisdiction over public records  
23 matters (Lake v. City of Phoenix, 220 Ariz. 472 “The court's jurisdiction was not  
24 discretionary because A.R.S. § 39-121.02(A) provides that any person who has been  
25 denied access to public records may challenge the denial through a special action in  
26 the superior court.”). Secondly, the Arizona judicial department has consolidated the  
27 “old writs” into one special action, pursuant to Special Action Rule 2(c). Plaintiff is  
28 not required to segregate between “mandamus” relief and “prohibition” relief or any  
29 other writ. Further, the Plaintiff has requested in his Complaint “Awarding the  
30 Plaintiff any and all other relief as is just, proper, or equitable under the facts and  
31 circumstances of this case”. This Court should be capable of understanding the plain  
32 meaning of the request sought and be capable of issuing relief.  
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1 Further, injunctive relief and declaratory relief are allowed in special actions.  
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3 See Arkules v. Board of Adjustment, 161 Ariz. 598 “In this case, Arkules filed, by  
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5 amended complaint, a special action in the superior court, giving the superior court  
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7 broader powers in the exercise of its original jurisdiction. See Ariz.R.P.Spec.Ac. 1(a)  
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9 and 4(a), 17B A.R.S. These powers include granting his requested relief, an  
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11 injunction, upon making the proper findings.”  
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14 **PUBLIC RECORDS REQUESTED REGARDING CLAIMS DIVISION**

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16 The Plaintiff added claims regarding the claims division in ¶¶82-87, 96-97 of  
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18 the First Amended Complaint, which the Defendant addressed zero times in their  
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20 Motion to Dismiss.  
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22 Filing a Rule 12(b)(6) motion to dismiss means that everything should be  
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24 dismissed because there are **ZERO** claims for relief (emphasis added). Because, at  
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26 this stage, the Defendant can only move to dismiss newly added claims to the  
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28 Complaint, the Defendant should address why this Court should deny relief  
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30 regarding, inter alia, him asking for job descriptions and job duties of the Defendant’s  
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32 self-alleged “claims division”, which they allege investigate and give findings. The  
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34 Industrial Commission alleges that they have zero documents regarding the job duties  
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36 and job descriptions of employees of the claims division, which either means (1) they  
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38 have records they are not turning over, in violation of public records law; or (2) they  
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40 are in violation of A.R.S. § 39-121.01(B) by literally employing people that they have  
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42 no record of what they are supposed to do for the Industrial Commission while  
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44 simultaneously telling this Court that “[t]he Claims Division is tasked with  
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1 investigating certain aspects of workers' compensation claims" and that the Claims  
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3 Division comes up with "findings" (Response to Petition for Order to Show Cause,  
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5 filed 31 December 2025).  
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### 7 CONCLUSION

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9 For the above reasons, Plaintiff requests that this Court deny the motion to  
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11 dismiss and hear this case on the merits, assuming the truth and indulging all  
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13 reasonable inferences of the First Amended Complaint, in accordance with well-  
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15 established case law. We are heading into an evidentiary hearing and this Court has  
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17 been very clear that it wants to entertain evidence and will not accept purely  
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19 conclusory statements from either party before making any rulings on the merits of  
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21 this case. The Defendant has already forfeited their right to a Rule 12(b)(6) wholesale  
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23 dismissal by filing an Answer to the Complaint, and the Defendant does not address  
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25 the new claims regarding the public records regarding the claims division employees'  
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27 job duties and job description in their Motion to Dismiss. Plaintiff and Defendant  
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29 have already briefed this Court on their legal arguments, making this Motion to  
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31 Dismiss dilatory.  
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### 35 REQUESTED RELIEF

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37 Plaintiff requests the following relief:  
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- 39 1. This Court deny this Motion to Dismiss.
  - 40 2. This Court proceed with the already-set 28 August 2026 evidentiary hearing.
  - 41 3. The Defendant file an Answer to the First Amended Complaint.
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**A COPY OF THIS WILL BE SENT TO:**

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Submitted respectfully this day, 4 June 2026,

    /s/Eli Dalton-Webb    

Eli Dalton-Webb, *Plaintiff*