

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2025-036466

03/25/2026

HONORABLE SCOTT A. BLANEY

CLERK OF THE COURT
P. McKinley
Deputy

A Z N H REVOCABLE TRUSTIMOPLA, et al. JOHN F SULLIVAN

v.

KAY ABRAMSOHN, et al.

CHAD M GALLACHER
RAYA GARDNER
KARA MARIE KARLSON
KYLE ROBERT CUMMINGS
DEANIE J REH
JUDGE BLANEY
OFFICE OF ADMINISTRATIVE
HEARINGS

UNDER ADVISEMENT RULING

OAH Case No. 24F-H047-REL-RMD

The Court has reviewed and considered Plaintiff's *Complaint for Special Action*, Plaintiff's *Motion for Judgment on the Case Filings*, the parties' multitude of responsive and related filings in this case, and the comments received at the January 14, 2026 Order to Show Cause Return Hearing.

After hearing from the parties at the Return Hearing, the Court informed the parties that it would not be setting an evidentiary hearing in this special action but would instead "rule on the papers." The Court notes that despite the straightforward, discrete issue in this case, the parties – or at least some of them – have made a mess of the docket. The Court's ruling on the merits will moot most of those filings.

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Plaintiff Trust brought this special action arguing that it was denied its right to a peremptory change of the assigned Administrative Law Judge (“ALJ”) in the administrative proceedings below. The evidentiary hearing in those proceedings was scheduled for September 26, 2025. At midnight on that same day, the current version of A.R.S. § 41-1092.07 went into effect – just nine hours before the scheduled hearing. The newly enacted statute contained a provision that allowed a party one peremptory change of the ALJ. Minutes after the statute went into effect, Plaintiff exercised that right. But at the evidentiary hearing, the ALJ treated the peremptory challenge as a motion and denied it. Plaintiff’s Counsel subsequently left the hearing without participation, prompting the ALJ to dismiss the case.

The issue before the Court is whether Plaintiff was entitled to invoke A.R.S. § 41-1092.07(A) – which states in part: “A party to a contested case or appealable agency action is entitled to one peremptory change of administrative law judge.” The statutory right went into effect – and Plaintiff invoked it – just hours before the start of the scheduled evidentiary hearing.

THE COURT FINDS that Plaintiff was entitled to exercise its right to peremptory challenge of the assigned judge and did in fact properly and timely invoke that right under the circumstances. The right came into existence hours before the hearing and thus Plaintiff could not have invoked it any sooner. Further, “[a] statute that is merely procedural may be applied retroactively,” *San Carlos Apache Tribe v. Superior Court*, 193 Ariz. 195, 205 ¶ 15 (1999), and § 41-1092.07 governs *procedures* for administrative proceedings.

THE COURT FURTHER FINDS that the ALJ acted in excess of her jurisdiction and legal authority by issuing rulings on the case after Plaintiff properly exercised its right to peremptory change of judge. To be clear, the Court does not fault the ALJ for the manner by which she chose to interpret and apply this newly enacted statute in the absence of prior precedent. But as a matter of law any actions taken by the challenged ALJ after Plaintiff’s invocation of the right to change of judge are without effect.

On good cause, and in the Court’s discretion,

IT IS ORDERED granting in part the relief that Plaintiff seeks in its *Complaint for Special Action*. Any orders, rulings, decisions, findings, and or recommendations issued in the case below on or after September 26, 2025 are vacated.

IT IS FURTHER ORDERED Defendant Arizona Office of Administrative Hearings shall reassign responsibility for Plaintiff’s case to an alternative Administrative Law Judge.

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IT IS FURTHER ORDERED declining to address the parties' remaining arguments and filings as either moot or unpersuasive.

IT IS FURTHER ORDERED directing Plaintiff to prepare and lodge a form of Judgment on or before **April 6, 2026**. Plaintiff shall file any application for attorney's fees and statements of taxable costs by this deadline as well. Defendants shall file any objections or responses to the form of judgment or to the request for attorney's fees and costs within **ten (10) days** thereafter.

IT IS FURTHER ORDERED the Judgment shall contain Rule 54(c) language as upon resolving attorney's fees and costs, no further matters will remain pending.