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**IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA**

AZNH REVOCABLE TRUST,
by and through
JOHN and SUSAN SULLIVAN,
TRUSTEES, REAL PARTIES IN
INTEREST

Plaintiff

v.

KAY ABRAMSOHN,
ADMINISTRATIVE LAW JUDGE,
ARIZONA OFFICE OF
ADMINISTRATIVE HEARINGS,

and

TAMMY EIGENHEER,
INTERIM DIRECTOR,
ARIZONA OFFICE OF
ADMINISTRATIVE HEARINGS,

and

ARIZONA DEPARTMENT OF REAL
ESTATE,

and

SUNLAND SPRINGS VILLAGE
HOMEOWNERS ASSOCIATION,

Defendants

No. CV2025-036466

**PLAINTIFF'S MOTION FOR
JUDGMENT
ON THE CASE FILINGS**

(Original Special Action)

Assigned to:
Hon. Scott Blaney

1 **NOW COMES THE PLAINTIFF** (“Trust”) who asks the Court to enter Judgment for the
2 Trust and to enforce the Trust’s right to peremptory change of an Administrative Law Judge
3 (“ALJ”) under A.R.S. § 41-1092.07(A) which reads:

4 A party to a contested case or appealable agency action is entitled to one
5 peremptory change of administrative law judge.

6 A.R.S. § 41-1092.07(A).

7 The Trust also asks for all relief requested in the Complaint.

8 As used herein, “RPSA” stands for Rules of Procedure for Special Actions (17B A.R.S.
9 Special Actions, Rules of Procedure).

11 **I. Courts Authority to Enter Judgment**

12 Superior courts may decide special actions based on case filings and written evidence. *See,*
13 *e.g., Phoenix Newspapers, Inc. v. Keegan*, 201 Ariz. 344, 347-48 nn. 4,6, ¶¶ 8, 12 (App. 2001)
14 (deciding legal issues in special action based on the factual record created by the case filings).
15 *See also*, 2 Camila Alarcon et al., *Arizona Appellate Handbook 2.0* at 24.15 (2nd ¶) (2020)
16 (stating same).

18 **II. Introduction**

19 A judgement on the case filings is warranted because the only two required defendants in this
20 Original Special Action (Ms. Abramsohn & Ms. Eigenheer) have stated, in a filing to this Court,
21 they are not defending the action. Their refusal to defend is discussed further in **sec. V**, *infra*.

22 The chief consequence of refusing to defend arises from R.Civ.P. 8 which is integrated into
23 the RPSA by RPSA 7(a)(2). Pursuant to R.Civ.P 8 (General Rules of Pleading):

24 An allegation--other than one relating to the amount of damages--is admitted if a
25 responsive pleading is required and the allegation is not denied.

26 R.Civ.P. 8(c)(6).

27 An Answer or response (compliant with R.Civ.P. 8 & 12) is required by RPSA 7(a)(2).

1 **III. The Most Significant Admissions**

2
3 The significant allegations of the Complaint which are deemed admitted (17 in all) are shown
4 in **Exhibit A** accompanying this Motion. The most significant admissions are shown below.

5
6 Ms. Abramsohn and Ms. Eigenheer have admitted:

7
8 **Complaint ¶ 1.**

9 Kay Abramsohn, is an Administrative Law Judge (“ALJ”) working in the Arizona Office of
10 Administrative Hearings.

11
12 **Complaint ¶ 2.**

13 Tammy Eigenheer, is the Interim Director of the Arizona Office of Administrative Hearings.

14
15 **Complaint ¶ 10.**

16 Just after midnight on the morning of September 26, 2025 (about 9 hours before the scheduled
17 hearing), a legislatively revised version of A.R.S. § 41-1092.07 became effective. The revision
18 reads, in full:

19 “A party to a contested case or appealable agency action is entitled to one
20 peremptory change of administrative law judge.”

21
22 **Complaint ¶ 11.**

23 At about 12:13 a.m. on Sept. 26, 2025, Susan Sullivan, Trustee of AZNH Revocable Trust
24 exercised her statutory right to replace ALJ Abramsohn by submitting a peremptory change of
25 administrative law judge to the Director of the Office of Administrative Hearings via the office’s
26 “Electronic Submission System.”

27 [The peremptory submission is Exhibit C to the Complaint – it accompanies this
28 Motion as **Exhibit B.**]

29 //

1 **Complaint ¶ 19.**

2 ALJ Kay Abramsohn has:

- 3
- 4 A. Failed to cease her participation in the underlying matter, a duty required by
5 law for which she had no discretion;
- 6
- 7 B. Proceeded without, or in excess of, jurisdiction or legal authority by
8 conducting a hearing in the underlying matter; and,
- 9
- 10 C. Made a decision that was arbitrary and capricious, which can include a legal
11 error, by (purportedly) dismissing the underlying matter.
12

13 **Complaint ¶ 20.**

14 Tammy Eigenheer (Interim Director of the Arizona Office of Administrative Hearings) has:

- 15
- 16 D. Failed to replace ALJ Abramsohn in the underlying matter which is a duty
17 required by A.R.S. § 41-1092.07(A) for which she has no discretion;
- 18
- 19 E. Proceeded without, or in excess of, jurisdiction or legal authority by allowing
20 ALJ Kay Abramsohn’s continued involvement in the underlying matter; and,
- 21
- 22 F. Made a decision that was arbitrary and capricious, which can include a legal
23 error by (purportedly) treating Ms. Sullivan’s exercise of her statutorily-
24 granted preemptory right as a ‘motion’ and preventing Ms. Sullivan’s
25 preemptory right from going into effect.
26

27 See A.R.S. § 41-1092.01(H) (requiring Director to assign ALJ’s).
28

29 **Complaint ¶ 21.**

30 Per A.A.C. R2-19-106, a “motion” is a request for a ruling from an ALJ. The Trust did not
31 submit a request for a ruling to the ALJ, nor to anybody else.
32

33 **Complaint ¶ 22.**

34 When a party to a contested case exercises the preemptory right to change an
35 administrative law judge under A.R.S. § 41-1092.07(A), it becomes a legislative fiat; it
36 is not a ‘motion.’ Such fiat is not subject to the discretion or ruling of the then-assigned
37 ALJ.

1 **Complaint ¶ 23.**

2 Laches does not apply here. Ms. Sullivan exercised her peremptory right of removal
3 within minutes of receiving the right to do so and prior to the scheduled hearing.
4

5 **Complaint ¶ 24.**

6 Moreover, the willingness of the ALJ and her supervisor to continue the matter (as a
7 “compromise”) from September to December fully contradicts a claim of untimeliness.
8

9 **IV. Additional Admission**

10 Defendant Abramsohn admits she conducted an administrative hearing (in the absence of the
11 Trust) after she and Defendant Eigenheer received the Trust’s peremptory change of
12 administrative law judge. See **Exhibit C** accompanying this Motion – ALJ Abramsohn’s
13 “Order Vacating Hearing” dated Oct. 9, 2025. The caption of the Order is a misnomer; the
14 document specifically states a hearing was conducted by ALJ Abramsohn.
15

16 **V. Kay Abramsohn & Tammy Eigenheer – Not Defending Action**

17 Defendants Kay Abramsohn (Administrative Law Judge) and Tammy Eigenheer (Interim
18 Director of the Office of Administrative Hearings – [“OAH”]) have stated, through their lawyer
19 (Asst. Atty. General Kara Karlson), that they are not going to defend the case. See case filing,
20 “Limited Response of Judicial Defendants” filed December 10, 2025, by AAG Karlson. **By
21 telephone call on Dec. 16, 2025, AAG Karlson confirmed to the Trust’s counsel that the
22 Defendants are not going to submit any additional filings or take any further action to
23 defend the case.**

24 Pursuant to RPSA 7(d)(1) and R.Civ.P. 4.1(c)(3) the Defendants’ Answer or responses
25 [required under RPSA 7(a)(2) and R.Civ.P. 12] were due on or before **December 9, 2025.**
26 Neither of them has timely filed or delivered the required Answer or response. The AG’s
27 “Limited Response of Judicial Defendants” filed Dec. 10, 2025, is not a response identified or
28 allowed under RPSA 7(a)(2) or R.Civ.P. 12.

1 This Court must presume that AAG Karlson’s decision - not to defend the action - is a
2 litigation strategy. *See, e.g., State v. Webb*, 164 Ariz. 348, 351 (1990) (courts presume that
3 counsel’s conduct is trial strategy). There is a “strong presumption” that “counsel’s actions
4 were made for strategic or tactical reasons.” *Id.*

5 Counsel’s strategic or tactical decisions are often influenced by the client. *State v. Santanna*,
6 153 Ariz. 147, 150 (1987). “If counsel is commanded by his client to present a certain defense,
7 and if he does thoroughly explain the potential problems with the suggested approach, then his
8 ultimate decision to follow the client’s will may not be lightly disturbed.” *Id.* See Arizona
9 Supreme Court Rule 42, *Rules of Professional Conduct* (“RPC”) E.R. 1.2(a) (counsel shall abide
10 by a client’s decisions concerning the objectives of representation and shall consult with the
11 client as to the means by which they are to be pursued). See RPC E.R. 1.2(b) (a government
12 lawyer has a duty to abide by decisions that are made by the appropriate client representative
13 regarding the goals of representation in a particular matter).

14 Based on the above authorities, the Trust and this Court must presume that the decision - *not*
15 *to defend the action* – was made by counsel after consultation with her clients (who are both
16 members of the State Bar of Arizona). This Court should not disturb that decision. *Santanna*,
17 *supra*. Therefore, the Trust does not address the reasons for the chosen strategy (or tactic)
18 because the reasons for not defending are not relevant.¹

19
20 **VI. The Arizona Department of Real Estate – Not Defending Action**

21 Defendant Arizona Department of Real Estate (“ADRE”) has asserted that they should be
22 dismissed as a defendant or, alternatively, be designated a nominal party who takes no position
23 on any matter. See “Motion to Dismiss Arizona Department of Real Estate, or in the
24 Alternative, for Nominal Party Status” filed Dec. 9, 2025. The ADRE asserts, and the Trust
25 agrees, a nominal party “does not act as an advocate or otherwise take any position on the merits

¹ The Trust’s counsel notes, however, that the legal reasoning and conclusions expressed by defense counsel are flawed.

1 of the litigation” and does not have “any pecuniary or proprietary stake in the outcome of the
2 action.” ADRE Motion, pp. 3-4 (starting on p.3, line 22).

3 Regardless of the Court’s ruling on that pending Motion, the ADRE is either a nominal party
4 or is dismissed from the action. Either way, the ADRE shall not answer or otherwise defend this
5 Original Special Action. See RPSA 7(a)(2) requiring a defendant to file an Answer or a
6 response under R.Civ.P. 12. Consistent with their Motion, the ADRE has not filed an Answer or
7 response.

8 9 **VII. Sunland Springs Village HOA – Has Been Dismissed as Defendant**

10 Any person aggrieved by the action or inaction of a body, officer, or person for the reasons
11 set forth in RPSA 4 may commence an Original Special Action by Complaint in the Superior
12 Court. RPSA 5(a)(1), 6 & 7(a)(1). Such Complaint must name the body, officer, or person
13 whose actions are being challenged and “all other parties in whose absence the court cannot
14 afford complete relief.” RPSA 5(a)(2).

15 On December 17, 2025, the Trust submitted to the Court a Notice of Dismissal as to Sunland
16 Springs Village HOA (“HOA”) or Alternatively, Motion to Dismiss Same.

17 That Notice explains why the HOA is not a defendant and does not qualify as a Defendant
18 under RPSA 5 – they are not needed for the Court to afford complete relief. Perhaps most
19 importantly, **the HOA has no claims or interests which fall within the narrow scope of
20 subject matter jurisdiction (RPSA 4) and relief available (RPSA 10) for an Original
21 Special Action.** This Court’s Judgment (whatever it might be) in this Original Special Action,
22 shall not change any of the rights, claims, arguments or defenses the HOA has in its dispute with
23 the Trust.

24 Moreover, the HOA has not timely filed an Answer or response required by RPSA 7(a)(2)
25 which integrates the requirements of R.Civ.P. 12. Pursuant to RPSA 7(d)(1) and **R.Civ.P.**
26 **4.1(c)(3)** the HOA’s Answer or responses [required under RPSA 7(a)(2) and R.Civ.P. 12] were

1 due on or before **December 9, 2025**. The HOA has not filed or delivered the required Answer
2 or response.

3 [On October 10, 2025, the Trust sent a request asking the HOA waive formal service. The
4 HOA lawyer (Mr. Gallacher), without the Trust's permission, altered the date on the waiver
5 provided by the Trust and signed it. Per **R.Civ.P. 4.1(c)(3)** the HOA was required to serve their
6 Answer or response no later than 60 days after the waiver request was sent to them. Therefore,
7 an Answer or response was required by Dec. 9, 2025. See **Exhibit D** (request to waive and
8 waiver) accompanying this Motion.]

9 Unless or until the Court Orders otherwise, the Trust shall proceed on the basis that the
10 Trust's Notice of Dismissal became effective immediately. See *Vicari v. Lake Havasu City*
11 (App. Div.1 2009) 222 Ariz. 218, 222 (2009) *citing Goodman v. Gordon*, 103 Ariz. 538, 540
12 (1968); as cited in the Trust's Notice of Dismissal.

13 14 **VIII. Judgment for the Trust is Warranted**

15 Ms. Abramsohn & Ms. Eigenheer have not disputed or contested any allegation in the
16 Complaint. They have presented no defense what-so-ever, and have affirmatively stated
17 they shall not defend the action.

18 The allegations of the Complaint support the defendants' admissions that:

19 ALJ Kay Abramsohn has:

- 20
- 21 A. Failed to cease her participation in the underlying matter, a duty required by
22 law for which she had no discretion;
 - 23
 - 24 B. Proceeded without, or in excess of, jurisdiction or legal authority by
25 conducting a hearing in the underlying matter; and,
 - 26
 - 27 C. Made a decision that was arbitrary and capricious, which can include a legal
28 error, by (purportedly) dismissing the underlying matter; and,
 - 29

30 Tammy Eigenheer (Interim Director of the Arizona Office of Administrative
31 Hearings) has:

- D. Failed to replace ALJ Abramsohn in the underlying matter which is a duty required by A.R.S. § 41-1092.07(A) for which she has no discretion;
- E. Proceeded without, or in excess of, jurisdiction or legal authority by allowing ALJ Kay Abramsohn’s continued involvement in the underlying matter; and,
- F. Made a decision that was arbitrary and capricious, which can include a legal error by treating Ms. Sullivan’s exercise of her statutorily-granted peremptory right as a ‘motion’ and preventing Ms. Sullivan’s preemptory right from going into effect.

The Trust respectfully requests Judgment in its favor on all matters, including all relief available under RPSA 10 for Original Special Actions and such other and further relief as justice requires.

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Dated this 21st day of December, 2025.

/s/ John F. Sullivan
John F. Sullivan, Esq. (Bar # 023018)
Attorney for Plaintiff
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CERTIFICATE of SERVICE

A copy hereof shall be sent via the Court’s electronic filing and delivery system this date, to:

Asst. Attorney General Deanie Reh (counsel for Az. Dept. of Real Estate) at Deanie.Reh@azag.gov;

Asst. Attorney General Raya Gardner (counsel for Az. Dept. of Real Estate) at Raya.Gardner@azag.gov; and,

Asst. Attorney General Kara Karlson (counsel for Defendant’s Eigenheer & Abramsohn) at Kara.Karlson@azag.gov.

A courtesy copy shall be sent to:

Atty. Chad Gallacher (counsel for Sunland Springs Village Homeowners Assoc.) at
cgallacher@hoalaw.biz.

/s/ *John F. Sullivan*

Counsel for AZNH Revocable Trust