

CASE STUDY // PROCEDURAL EXPLAINER

Anatomy of an Administrative Appeal

Navigating statutory boundaries, remand scope, and agency jurisdiction in *AZNH Trust v. Sunland Springs HOA*.

Matter: LC2025-000025-001

Judge: Hon. Joseph P. Mikitish

Key Statutes: A.R.S. § 33-1812, A.R.S. § 32-2199.01

The Catalyst: A Dispute Over Electronic Ballots

THE STATUTE

“HOAs must retain all ballots and related materials, and make them available for inspection.”

A.R.S. § 33-1812(7)

THE CONFLICT

THE HOA'S STANCE

The February 2024 election utilized an electronic user interface (VoteHOANow). No physical ballot existed to produce; a complete record of votes cast was produced instead.

THE PLAINTIFF'S STANCE (AZNH Trust)

Demanded production of the underlying user interface and an undisclosed 50-second vendor video, arguing these constituted the electronic ballot under the statute.

INITIAL OUTCOME: The Office of Administrative Hearings (OAH) ruled the HOA fully complied. AZNH appealed.

The Jurisdictional Ping-Pong

CLERK OF THE
SUPERIOR COURT
FILED
B. WINSETT, DEP
2025 JAN 21 PH 1:00

John F. Sullivan, Esq.
1909 E. Ray Rd., Suite 9198
Chandler, Arizona 85225
(602) 793-9301
Bar No. 023018
Attorney for Plaintiff/Appellant

Nov 2024

Jan 2025

Apr 2025

Aug 2025

Sept 2025



Agency Petition

AZNH files HOA
dispute via
ADRE.



OAH Ruling

ALJ denies petition.
ADRE denies
rehearing.

Defendant/Appellee

SUNLAND SPRINGS VILLAGE
HOMEOWNERS ASSOCIATION,

Defendant/Appellee



Superior Court Appeal

AZNH files
appeal

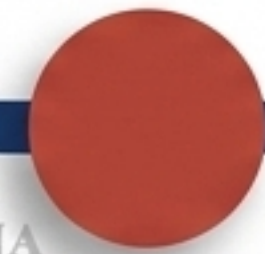
LC2025-000025.



The Remand

Judge Mikitish
remands for a
limited evidentiary
hearing.

Recognized to:
Joseph Mikitish



The Escalation

Dispute over
subpoenas
triggers Motion
to Enforce.



Final Showdown

Superior Court
Order to Show
Cause hearing.

The April 2025 Remand Mandate

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

LC2025-000025-001 DT

04/17/2025

...**dismissing** the appeal and remanding the matter

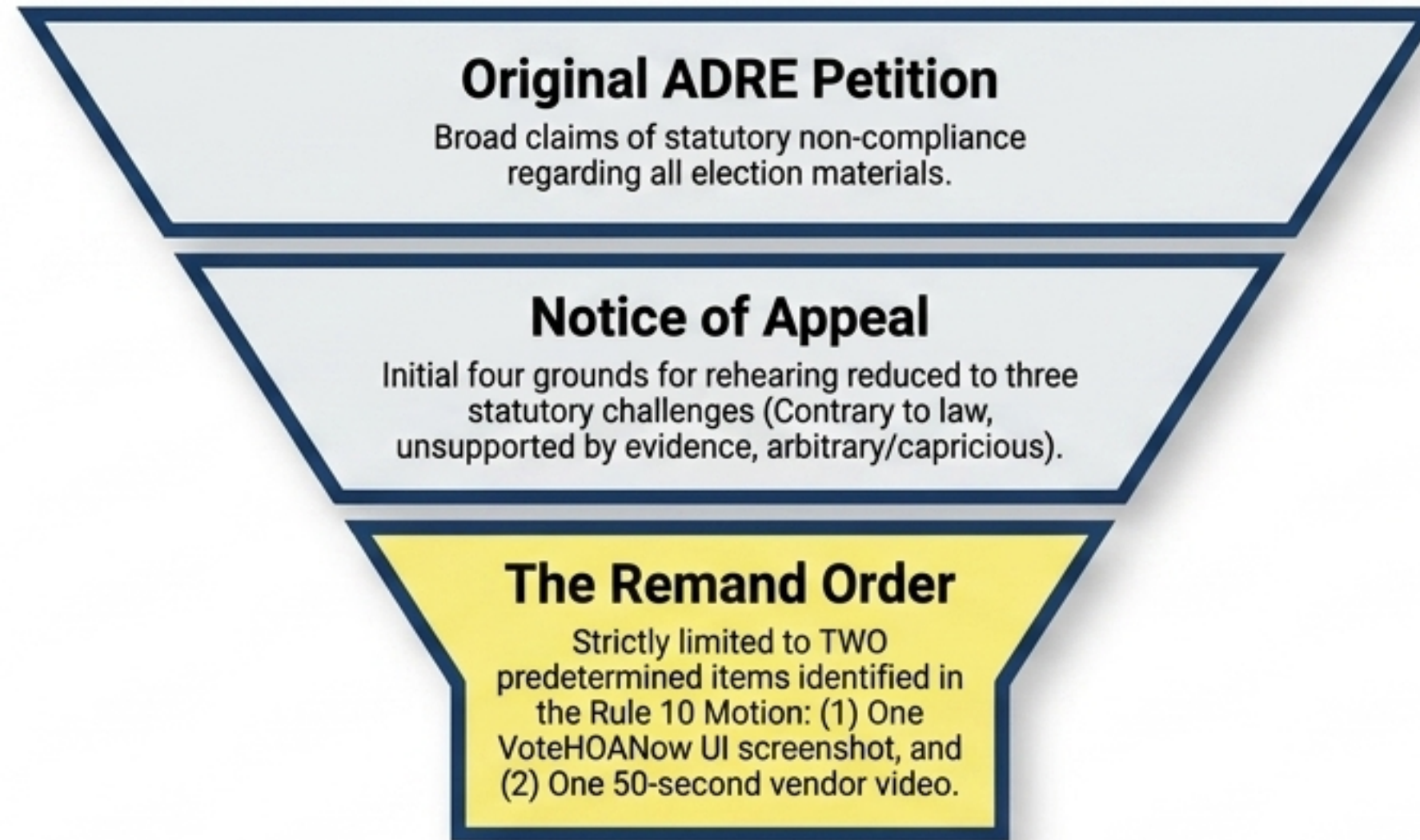
to the Department to conduct an an Evidentiary
Hearing to **address the additional evidence proposed**
by AZNH.



CRUCIAL CONTEXT

In their Rule 10 JRAD motion, the Plaintiffs specifically identified only TWO distinct items they wanted to introduce: a computer screenshot and a 50-second vendor video.

The Attrition of Admissible Evidence



LEGAL PRINCIPLE: A lower court or agency on remand is strictly bound by the higher court's mandate. The evidentiary funnel cannot be widened once narrowed by an appellate judge.

Testing the Boundaries: Plaintiff's Subpoena Push

Following the remand, AZNH interpreted the evidentiary hearing as an open door to restart discovery. They filed motions with the agency to subpoena entirely new witnesses who had not previously testified.

THE CONFLICT:
None of these individuals were part of the two narrow pieces of evidence dictated by Judge Mikitish's April 17 order.

The image displays three overlapping subpoena forms from the Office of Administrative Hearings (AZNH). Each form is a subpoena issued under the authority of A.R.S. § 41-1082.57C. The forms are for the following individuals:

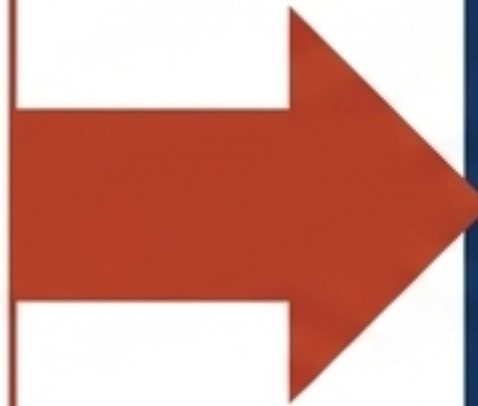
- Ruth Ingoldsby (HOA):** Matter No. 24F-H047-REL-RMD. TO: Name: Ruth Ingoldsby, Address: 715 S. ... Phoenix, AZ, 85033. Date: Sept. 25, 2025. Time: 9:50 a.m. Location: Office of Administrative Hearings.
- Brian Crowe (Director, HOA):** Matter No. 24F-4497-REL-RMD. TO: Name: Brian Crowe, Address: 10621 ... Phoenix, AZ, 85028. Date: Sept. 25, 2025. Time: 8:00 a.m. Location: 17th ... Phoenix, AZ, 85007.
- Terry Garrett (Director, HOA):** Matter No. 24F-H047-REL-RMD. TO: Name: Terry Garrett, Address: 2634 S. ... Phoenix, AZ, 85028. Date: Sept. 25, 2025. Time: 8:00 a.m. Location: 17th ... Phoenix, AZ, 85007.

Each form includes a red target symbol overlaid on the recipient's name and address. The forms also contain instructions regarding the hearing date, time, and location, and a statement of the Office of Administrative Hearings regarding the accessibility of its hearing to all persons with disabilities.

OAH Rejects the Fishing Expedition

PLAINTIFF'S DEMAND

Extract new testimony and additional records from VoteHOANow through three new HOA witness subpoenas.



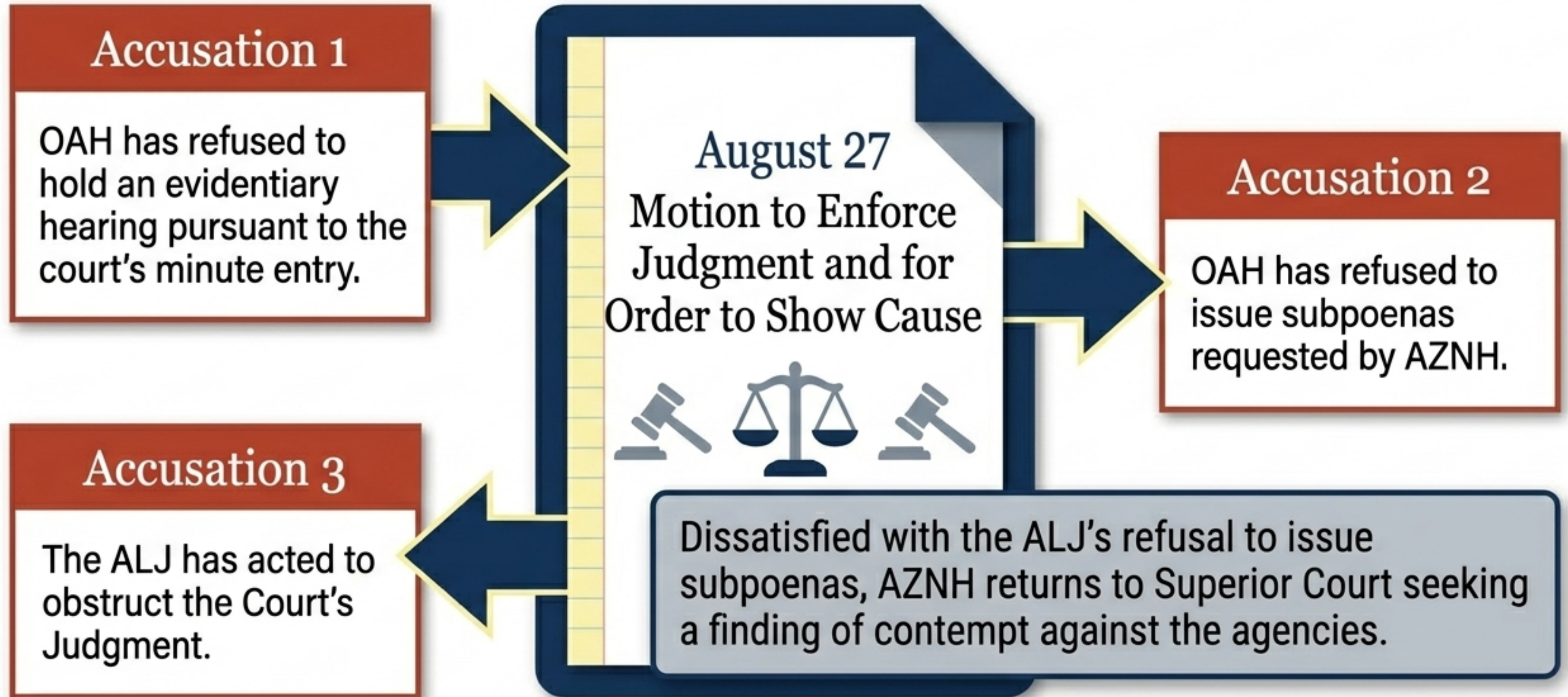
THE ALJ'S HARD STOP (Aug 15, 2025)

ALJ Kay Abramsohn completely denies the subpoenas.

KEY REASONING:

- Subpoenas fall entirely outside the limited scope of the Superior Court's Evidentiary Hearing remand.
- Neither the original Motion for Rehearing nor the Superior Court Appeal asserted grounds of newly discovered material evidence regarding these witnesses.
- The September 26 hearing will proceed, but strictly confined to the two permitted pieces of evidence.

The Escalation: Motion to Enforce Judgment



The Counterstrike: HOA Exposes the Factual Flaws

PLAINTIFF'S CLAIM	THE PROCEDURAL REALITY
OAH refuses to hold an evidentiary hearing.	Factually inaccurate. Notice of Hearing was issued and is firmly scheduled for September 26, 2025.
OAH illegally refused subpoenas.	Denying improper subpoenas upholds the Court's strict mandate. Plaintiff demands an unapproved fishing expedition.
Plaintiff demands a finding of contempt.	HOA demands dismissal, asserts Plaintiff lacks standing for piecemeal post-remand motions, and requests attorneys' fees under A.R.S. § 12-349 for blatant misrepresentations.

ELSRs OF THE
SUPERIOR COURT
R. LICO
G. FAHLER, DEP
2025 AUG 29 FH 3:30

1 MENWELL & MORGAN, P.C.
2 Phoenix Commerce Center
3 4534 East Eastman Road, Suite 104
4 Mesa, Arizona 85206
5 Telephone: (480) 611-1002
6 FAX: (480) 611-4227
7 Email: info@menwell.com
8 Fax No. 27092

9 Circo M. Carr, Attorney - State Bar No. 209447
10 Counsel for Defendant/Sunland Springs Village Homeowners Association

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

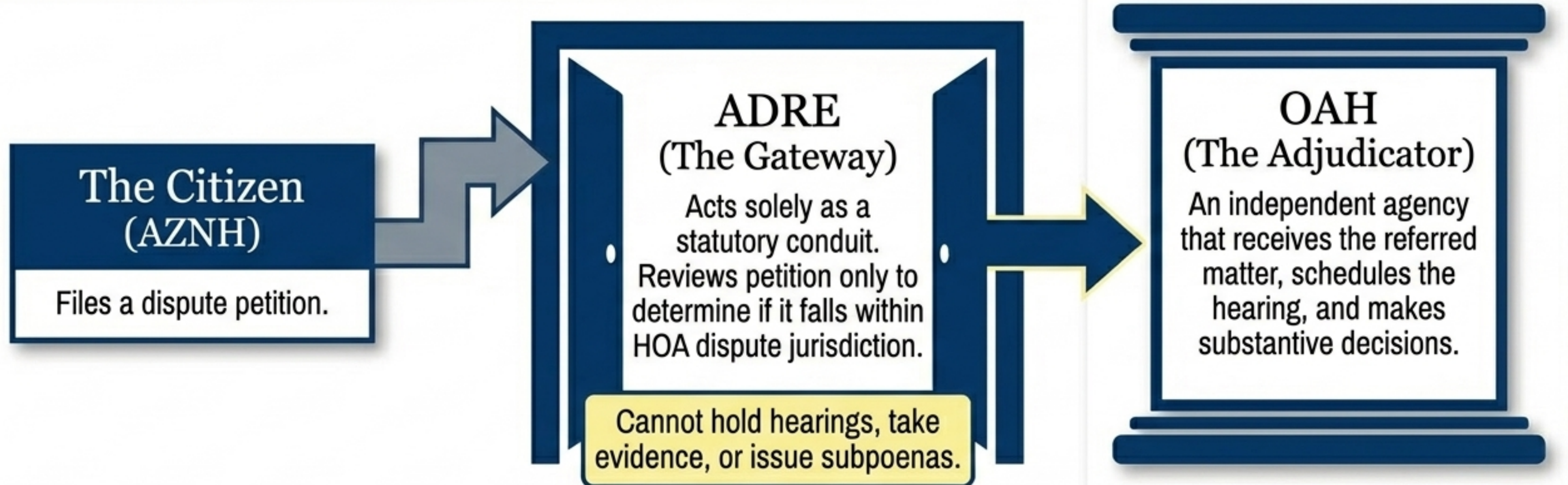
13
14 AZNH REVOCABLE TRUST, by and through JOHN and SUSAN SULLIVAN,
15 TRUSTEES, REAL PARTIES IN INTEREST,
16
17 Plaintiff/Appellant,
18
19 vs.
20 ARIZONA DEPARTMENT OF REAL ESTATE,
21
22 Defendant/Appellee,
23
24 SUNLAND SPRINGS VILLAGE HOMEOWNERS ASSOCIATION,
25
26 Defendant/Appellee.

27 No. LC2025-000025-001
28
29 **RESPONSE IN OPPOSITION TO PLAINTIFF/APPELLANT'S MOTION TO ENFORCE JUDGMENT AND FOR ORDER TO SHOW CAUSE**

30 Defendant/Appellee, Sunland Springs Village Homeowners Association (the "Association"), by and through counsel undersigned, respectfully requests that the Court deny Plaintiff/Appellant AZNH Revocable Trust's (the "Plaintiff") Motion to Enforce Judgment and for Order to Show Cause (the "Motion"). The Plaintiff lacks standing to bring this Motion before this court and the Motion is frivolous as the Arizona Department of Real

31 1

The Agency Gateway Model: Decoding Statutory Roles



INSIGHT: The Plaintiff sued ADRE for failing to issue subpoenas and hold hearings—powers the legislature literally did not grant them.

The Nominal Party Defense

“The Arizona Department of Real Estate takes a passive or nominal role and is not, nor has ever been, a true party to this action.”

KEY ASSERTIONS:



ADRE is statutorily incapable of having a pecuniary or proprietary stake in an HOA dispute.



ADRE took no action regarding the rehearing date or subpoenas—those were solely independent OAH decisions.



Citing MVC Const., Inc. v. Treadway: An agency taking no role as an advocate is a nominal party, not subject to attorneys' fees or contempt for adjudicative outcomes.

1 administrative law judge at OAH as the Department is not statutorily authorized to hold
2 such hearings and is directed to refer them to OAH. *Id.* As such, the Department cannot
3 conduct any hearings, take any evidence, or render any substantive decisions regarding any
4 matter that is part of the HOA dispute process. While the Department is statutorily granted
5 an adjudicative function in other capacities, the legislature did not bestow any such role on
6 the Department with respect to HOA disputes. Further, OAH is an independent agency from
7 the Department and the Department does not have any authority to dictate or direct OAH's
8 actions.

9 As such, the Department made no decisions with regard to setting a date for
10 rehearing in this case or with regard to issuance of subpoenas. Once the case was turned
11 over to OAH, the Department took no action with regard to it, and takes no position on
12 whether the actions by OAH were in compliance with the Order.

13 The Department has no interest in the underlying dispute in this case, and took (and
14 still takes) no active part in the proceedings. As aforementioned, the Department is not in a
15 position to decide the dispute and has no role in the dispute other than acting as the gateway
16 to initiate the dispute process. For this session, the Department is not capable of having any
17 pecuniary or proprietary stake in the outcome of the case. See *MVC Const., Inc. v.*
18 *Treadway*, 182 Ariz. 615, 620 (App. 1995); *Certaro Water Users' Ass'n v. Steiner*, 148
19 Ariz. 314, 318 (1986) (holding that if an agency takes no role as advocate, it is a nominal
20 party, not subject to award of attorney's fees), and *Bromley Group, Ltd. v. Arizona Dept. of*
21 *Revenue*, 170 Ariz. 552, 559 (App. 1991) (holding that a nominal party must have no
22 pecuniary or proprietary stake in the outcome of the action). See also *Duwamish Valley*
23 *Neighborhood Pres. Coal. v. Cent. Puget Sound Growth Mgmt. Hearings Bd.*, 97 Wash.
24 App. 98, 100 (1999) (holding that “when a litigant seeks judicial review of [an adjudicative]
25 agency's decision, the agency is only a nominal party, not charged with defending the
26 correctness of the decision, and is without policymaking authority”).

27 In conclusion, if the Court wishes more documentation of the Department's nominal

Matrix of Interpretations: The April Remand

THE PLAINTIFF (AZNH)	THE ADJUDICATORS (HOA & OAH)	THE CONDUIT (ADRE)
<p>A Reset Button</p> <p>Believed the remand reopened discovery, requiring the agency to accept new subpoenas and broaden the scope of investigation into the electronic user interface.</p>	<p>A Closed Loop</p> <p>Believed the remand was strictly bound to the 2 explicit pieces of evidence requested in the JRAD Rule 10 motion. Expanding beyond this violates appellate procedure (Bogard v. Cannon).</p>	<p>Not Our Jurisdiction</p> <p>Believed the remand was purely an instruction to pass the matter to OAH, taking no stance on the scope of evidence or discovery whatsoever.</p>

The Final Showdown: September 17 Hearing

11:03 a.m. Virtual Order to
Show Cause Return Hearing
before Hon. Joseph P. Mikitish

IT IS ORDERED denying any requests
for relief in the Motion to Enforce
Judgment and for Order to Show Cause...
*The Court will not be issuing any other
orders in this matter.*

IMPACT: Complete dismissal of the Plaintiff's attempt to force contempt,
entirely validating the HOA and OAH interpretation of the remand scope.

Synthesis: The Boundaries of Administrative Appeals

CORE LEGAL TAKEAWAYS

The Strict Mandate Rule

(Principle) An appellate remand does not restart a case. A lower court or agency must strictly follow the mandate of the higher court decision.

(Application) Attempting to subpoena new witnesses when remanded solely to admit two predetermined exhibits is a procedurally **fatal fishing expedition**.

Nominal Agency Immunity

(Principle) Statutory gateways do not bear adjudicative liability.

(Application) Litigants cannot **sue or seek contempt** against a routing agency (ADRE) for the independent judicial decisions of the hearing body (OAH).

Case Status & Final Posture

Superior Court Appeal

CLOSED. Judge Mikitish has relinquished jurisdiction; no further orders will issue. Plaintiff's contempt motion completely denied.

The Evidentiary Hearing

PROCEEDING AS ORDERED. Scheduled for Sept 26, 2025, before ALJ Abramsohn. Strictly limited to the electronic ballot screenshot and the 50-second vendor video. No new witnesses.

Agency Standing

PROTECTED. ADRE successfully maintained its nominal status, avoiding being dragged into the substantive HOA dispute.

CONCLUSION: Success in administrative appeals relies not on aggressive motion practice, but on strict adherence to statutory **jurisdiction and appellate mandates.**