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 Clerk of the Superior Court  
 By Janet Thampy, Deputy  
 Date 10/08/2025 Time 09:59:51  
 Description Amount  
 ----- CASE# CV2025-036466 -----  
 CIVIL NEW COMPLAINT 367.00  
 -----  
 TOTAL AMOUNT 367.00  
 Receipt# 30509635

Atty. JOHN SULLIVAN  
 1909 E. Ray Rd., Suite 9198  
 Chandler, Arizona 85225  
 (480) 818-5070  
 Bar No. 023018  
 Attorney for Plaintiff

**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

**COMPLAINT  
 FOR  
 SPECIAL ACTION**

(Original Special Action)

1 **I. Parties**

- 2 1. Defendant, **Kay Abramsohn**, is an Administrative Law Judge (“ALJ”) working in the  
3 Arizona Office of Administrative Hearings with a business address of 1740 West Adams  
4 Street, Lower Level, Phoenix, AZ. 85007.
- 5 2. Defendant, **Tammy Eigenheer**, is the Interim Director of the Arizona Office of  
6 Administrative Hearings with a business address of 1740 West Adams Street, Lower  
7 Level, Phoenix, AZ. 85007.
- 8 3. Defendant, **Arizona Department of Real Estate** (“ADRE”), is a state agency  
9 responsible for processing disputes arising between a homeowner and a Planned  
10 Community and has a business address 100 North 15<sup>th</sup> Avenue, # 201, Phoenix AZ.  
11 85007.
- 12 4. Defendant, **Sunland Springs Village Homeowners Association** (“HOA”), is a domestic  
13 non-profit corporation subject to the provisions of the Arizona Planned Communities  
14 Act, Title 33, Chapter 16 (A.R.S. §§ 33-1801 to 1819), and has a place of business at  
15 11214 E. Laguna Azul Cir., Mesa, AZ 85209.
- 16 5. Plaintiff, **AZNH Revocable Trust** (“Trust”), holds title to real property within Sunland  
17 Springs Village, a Planned Community in Mesa, AZ. John & Susan Sullivan (*real*  
18 *parties in interest*) are the Trustees of AZNH Revocable Trust which has its principal  
19 place of administration at 336 Intervale Rd., Unit B1, Gilford, NH 03249.

20 **II. Venue and Jurisdiction**

- 21 6. Venue & personal jurisdiction are proper in the Superior Court for Maricopa County.
- 22 7. The Superior Court has subject matter jurisdiction pursuant to Ariz. Const. art. VI, § 14,  
23 A.R.S. §§ 12-122, 12-123, and RPSA 2 & 6.

24 **III. Facts**

- 25 8. The underlying matter is a dispute between the Trust and the HOA wherein the Trust  
26 alleges the HOA failed to retain electronic ballots for inspection as required by A.R.S.  
27 33-1812. The matter was submitted for administrative hearing to the ADRE per A.R.S.  
28 § 32-2199.01. The Trust appealed a final administrative decision and the Superior

1 Court, Lower Court Appeals Division, remanded the matter to the ADRE for an  
2 evidentiary hearing on specific issues. **Exhibit A.** The ADRE also Ordered the ALJ to  
3 conduct a “rehearing” on several, separate and additional bases. **Exhibit B.**

4 9. The evidentiary hearing was initially set for July 24, 2025, before ALJ Abramsohn, but  
5 was rescheduled at the request of the HOA for September 26, 2025 at 9:00 a.m., and the  
6 ALJ reset the matter solely as a “rehearing.”

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

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

12 11. At about 12:13 a.m. on Sept. 26, 2025, Susan Sullivan, Trustee of AZNH Revocable  
13 Trust exercised her statutory right to replace ALJ Abramsohn by submitting a  
14 peremptory change of administrative law judge to the Director of the Office of  
15 Administrative Hearings via the office’s “Electronic Submission System.” **Exhibit C**  
16 (“Petitioner’s Peremptory Change of Administrative Law Judge”). A copy was provided  
17 electronically to the HOA attorney (Chad Gallacher).

18 12. The Trust attorney arrived at the Office of Administrative Hearings (“OAH”) shortly  
19 prior to 9:00 a.m. on Sept. 26, 2025, with intent to proceed, if possible, with a hearing  
20 before a different administrative law judge.

21 13. Shortly after 9:00 a.m., ALJ Abramsohn called the parties into a hearing room.

22 14. Upon arrival in the hearing room, ALJ Abramsohn told the parties that she would engage  
23 in an “off the record” discussion of a “motion” to remove her from the case. ALJ  
24 Abramsohn stated that she had discussed the “motion” with her “supervisor.” ALJ  
25 Abramsohn further stated that she and her supervisor had discussed the matter and they  
26 decided that the “motion” was untimely and she would remain as the assigned ALJ, *but*  
27 *as a “compromise” she would grant a continuance to December.*

1 15. The Trust attorney attempted to explain that a peremptory right is not a motion subject to  
2 her discretion or decision, and the peremptory removal was an immediate and  
3 unquestioned statutory right. But ALJ Abramsohn stated she would proceed with the  
4 hearing and told Trust counsel he could leave if he so wished. Trust counsel did leave  
5 before any hearing began.

6 16. Later that day (Sept. 26<sup>th</sup>), Trust counsel submitted further legal explanation to the  
7 Director of OAH via the OAH “Electronic Submission System.” **Exhibit D**  
8 (“Supplement to Petitioner’s Peremptory Change of Administrative Law Judge”).

9 17. As of this writing, Trust counsel has not received any further communication from the  
10 OAH.

11 18. On Saturday, October 4, 2025, Trust counsel obtained an audio recording of a hearing  
12 conducted in this matter by ALJ Abramsohn on Sept. 26<sup>th</sup> wherein she stated the  
13 “motion” to remove her from the case was untimely and the matter was dismissed  
14 because Trust counsel did not remain for the hearing. ALJ Abramsohn did not state  
15 what legal authority allows a dismissal. See A.A.C. R2-19-117 (Dismissal not an option  
16 when a party fails to appear for a hearing). **Exhibit E.**

17 **IV. Redressable Conduct**

18 19. Based upon the above facts, ALJ Kay Abramsohn has:

19 A. Failed to cease her participation in the underlying matter, a duty required  
20 by law for which she had no discretion;

21 B. Proceeded without, or in excess of, jurisdiction or legal authority by  
22 conducting a hearing in the underlying matter; and,

23 C. Made a decision that was arbitrary and capricious, which can include a  
24 legal error, by (purportedly) dismissing the underlying matter.

25 See RPSA 4.

26 20. Based upon the above facts, Tammy Eigenheer, Interim Director of the Arizona Office  
27 of Administrative Hearings has, as of this writing and on information and belief:

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

10 See RPSA 4. See A.R.S. § 41-1092.01(H) (requiring Director to assign  
11 ALJ’s).

12 **V. Preemptory Right is Not a Motion**

- 13 21. Per A.A.C. R2-19-106, a ‘motion’ is a request for a ruling from an ALJ. The Trust did  
14 not submit a request for a ruling to the ALJ, nor to anybody else.
- 15 22. When a party to a contested case exercises the preemptory right to change an  
16 administrative law judge under A.R.S. § 41-1092.07(A), it becomes a legislative fiat; it  
17 is not a ‘motion.’ Such fiat is not subject to the discretion or ruling of the then-assigned  
18 ALJ.

19 **VI. Preemptory Right Timely Exercised**

- 20 23. Laches does not apply here. Ms. Sullivan exercised her preemptory right of removal  
21 within minutes of receiving the right to do so and prior to the scheduled hearing.
- 22 24. Moreover, the willingness of the ALJ and her supervisor to continue the matter (as a  
23 “compromise”) from September to December fully contradicts a claim of untimeliness.

24 **VII. Requested Relief**

- 25 25. Pursuant to RPSA 10, the Trust respectfully requests the following relief regarding the  
26 underlying dispute most recently docketed as OAH # 24F-H047-REL-RHG:

- 1 a. Declare that ALJ Kay Abramsohn was removed from the underlying dispute by the  
2 peremptory action of Susan Sullivan on September 26, 2025, pursuant to A.R.S. §  
3 41-1092.07(A);
- 4 b. Vacate and nullify any related proceedings conducted by ALJ Abramsohn on or  
5 after September 26, 2025;
- 6 c. Vacate any orders, decisions, recommendations or relief issued or granted by ALJ  
7 Abramsohn on or after September 26, 2025;
- 8 d. Order that ALJ Kay Abramsohn shall not exercise any authority, participate in,  
9 confer with anyone, or take any action with respect to the underlying dispute;
- 10 e. Order that this matter is remanded to the Office of Administrative Hearings for  
11 assignment of an Administrative Law Judge to replace ALJ Abramsohn;
- 12 f. Order that this matter is remanded to the Office of Administrative Hearings or the  
13 Arizona Department of Real Estate for both, an evidentiary hearing as previously  
14 Ordered by the Court on April 17, 2025, in LC2025-000025, and a rehearing as  
15 Ordered by the Arizona Department of Real Estate on June 27, 2025;
- 16 g. Award attorneys' fees to the Trust pursuant to A.R.S. § 12-348 and, where  
17 applicable, pursuant to A.R.S. § 12-349;
- 18 h. Award the Trust its costs per A.R.S. § 12-341; and,
- 19 i. Grant such other and further relief as justice requires.
- 20

21 Dated this 7<sup>th</sup> day of October, 2025.

*/s/ John F. Sullivan*

22 John F. Sullivan, Esq. (Bar # 023018)  
23 Attorney for Plaintiff  
24 1909 E. Ray Rd., Suite 9198  
25 Chandler, AZ. 85225  
26 480-818-5070  
27 email: Info@SullivanAppeals.com

# **Plaintiff's Exhibit A**

Clerk of the Superior Court  
\*\*\* Electronically Filed \*\*\*  
04/21/2025 8:00 AM

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

LC2025-000025-001 DT

04/17/2025

HONORABLE JOSEPH P. MIKITISH

CLERK OF THE COURT  
N. Johnson  
Deputy

A Z N H REVOCABLE TRUST  
JOHN SULLIVAN  
SUSAN SULLIVAN

JOHN SULLIVAN

v.

ARIZONA DEPARTMENT OF REAL ESTATE  
(001)  
SUNLAND SPRINGS VILLAGE  
HOMEOWNERS ASSOCIATION (001)

LYNETTE EVANS  
B AUSTIN BAILLIO

JUDGE MIKITISH  
REMAND DESK-LCA-CCC

## **MINUTE ENTRY ORDER OF DISMISSAL**

The Court has received and reviewed the Motion for Evidentiary Hearing to Introduce Additional Evidence filed by the appellant AZNH Revocable Trust on January 21, 2025, the response thereto filed by the Appellee Sunland Springs Village Homeowners Association on February 18, 2025, and AZNH reply filed on February 19, 2025.

In the Motion, AZNH argues that it filed a petition with the Department of Real Estate (the Department) alleging that Sunland Springs violated state law by failing 1) to retain all ballots and related materials, and 2) to make them available for inspection. A.R.S. § 33-1812. It argues that the Department held hearing through the Office of Administrative Hearings and concluded that Sunland Springs did not violate the law because voting was done through an electronic user interface without ballots. AZNH argues that, after the Department's Decision, AZNH obtained an electronic ballot which Sunland Springs had in its custody but failed to produce. AZNH requests an Evidentiary Hearing to present the additional evidence. It argues that a remand to the Agency is unnecessary because the Office of Administrative Hearings conducts Department hearings

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

LC2025-000025-001 DT

04/17/2025

without experts in the Department's regulatory arena. Therefore, it argues that this Court is in as good a position to conduct the hearing as the Department.

Sunland Springs argues that an Evidentiary Hearing simply to present additional evidence is not contemplated by the rules. It argues that the evidence presented by AZNH is inadmissible and belongs to VoteHOANow and is not a part of the records of the Association. It argues that the Department and Office of Administrative Hearings has extensive experience in HOA disputes and should be the proper venue for resolving AZNH's request.

The applicable rules of procedure provide that any party seeking to introduce exhibits or testimony (or both) not offered during the administrative hearing must file a written motion identifying the evidence, setting forth the appropriate legal authority in support of its admission, and addressing whether a remand to the Agency is appropriate. Rule 10, Rules of Procedure for Judicial Review of Administrative Decisions. Arizona Law provides that the Superior Court may, when a hearing has been held by an agency, remand for the purpose of taking additional evidence when from the state of the record of the administrative agency or otherwise it appears that such action is just. A.R.S. § 12-911.

In this case, the background of the documents, the entity owning and storing the documents, and the details of the use of various technologies in the HOA election all require detailed analysis through a hearing.

**THE COURT FINDS** that the Department is in the best position to conduct the hearing.

Therefore,

**IT IS ORDERED** denying the Motion for the Superior Court to conduct an Evidentiary Hearing.

**IT IS FURTHER ORDERED** dismissing the appeal and remanding the matter to the Department to conduct an Evidentiary Hearing to address the additional evidence proposed by AZNH.

No matters remain pending in connection with this appeal. This is a final order. *See* Rules 12(c), 12(d), 14(b), Sup. Ct. R. App. P. – Civil and Rule 54(c), Ariz. R. Civ. P.

/s/ Joseph P. Mikitish  
THE HON. JOSEPH P. MIKITISH  
Judge of the Superior Court

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

LC2025-000025-001 DT

04/17/2025

NOTICE: LC cases are not under the e-file system. As a result, when a party files a document, the system does not generate a courtesy copy for the Judge. Therefore, you will have to deliver to the Judge a conformed courtesy copy of any filings.

# Plaintiff's Exhibit B

## BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS

In the Matter of:

**A Z N H Revocable Trust,**

Petitioner

vs.

**Sunland Springs Village Homeowners  
Association,**

Respondent

**File No.: 24F-H047**

**Docket No.: 24F-H047-REL-RMD**

### NOTICE OF HEARING

(Assigned to ALJ Kay Abramsohn)

### FINDING OF FACT

1. On or about November 5, 2024, the Office of Administrative Hearings (OAH) issued an Administrative Law Judge (ALJ) Decision ordering the denial of the Petitioner's Petition. Pursuant to Arizona Revised Statute (A.R.S.) §32-2199.04, an aggrieved person may file a motion for rehearing or review with the Commissioner of the Arizona Department of Real Estate (Department).

2. On or about November 30, 2024, the aggrieved party (Petitioner) filed a Dispute Rehearing Petition with the Department.

3. On or about December 23, 2024, the opposing party (Respondent) provided a response to the Rehearing Petition.

4. On or about January 8, 2025, the Department issued an Order Denying the Petitioner's Rehearing Request (Department's Decision).

5. On April 17, 2025, the Honorable Judge Joseph P. Mikitish issued a Minute Entry through the Maricopa County Superior Court of Arizona (Superior Court). The Minute Entry included, in part:

a. An Order denying the Motion of the Superior Court to conduct an Evidentiary Hearing

b. An Order dismissing the appeal and remanding the matter to the Department

6. On or about May 24, 2025, the Department was notified of a Minute Entry.

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**ORDER**

The Department hereby grants the Petitioner’s Dispute Rehearing Petition for the reason(s) outlined in the Rehearing Petition, which includes, in part:

1. Irregularity in the proceedings or any order or abuse of discretion by the administrative law judge that deprived a party of a fair hearing.
2. Error in the admission or rejection of evidence or other errors of law occurring during the proceeding.
3. That the findings of fact or decision is arbitrary, capricious, or an abuse of discretion.
4. That the findings of fact or decision is not supported by the evidence or is contrary to law.

**NOTICE OF HEARING**

YOU ARE HEREBY NOTIFIED that under Arizona Revised Statutes (“A.R.S.”) § 41-1092.01, a hearing on the above-captioned matter will be conducted through the Office of Administrative Hearings, an independent agency.

**Date of Hearing:  
July 24, 2025 at 9:00 a.m.  
Location:  
Office of Administrative Hearings  
1740 W. Adams St.  
Lower Level  
Phoenix, Arizona 85007**

Any person affected by this action must appear in person and can be represented by counsel. Parties or witnesses wishing to appear by video conference or telephone may, not later than 7 calendar days prior to the hearing date, request that the assigned Administrative Law Judge permit them to appear by video conference or by telephone. This must be done by contacting the Office of Administrative Hearings directly. Parties must be present during the giving all evidence to have a reasonable opportunity to inspect all documentary evidence and examine witnesses. Parties must also be present to evidence and argument on all relevant issues. Parties must be present to have subpoenas issued by the Administrative Law Judge to compel attendance of witnesses and production of evidence.

1 Information regarding procedures, practice pointers, or the online filing of motions is  
2 available through the Office of Administrative Hearings' website at [www.azoah.com](http://www.azoah.com), or by  
3 calling their offices at (602) 542-9826. The Office of Administrative Hearings has designated  
4 Kay Abramsohn, at the address listed above, as the Administrative Law Judge for these  
5 proceedings. If the Respondent does not appear, the hearing will proceed in the Respondent's  
6 absence. If the Petitioner does not appear, the Petition may be dismissed.

7 You are requested to be present at the hearing and produce all association rules and  
8 regulations and any amendments thereto, correspondence, associate policy statements and other  
9 relevant evidence, including photographs. **You are requested to bring three (3) copies of any**  
10 **documentary or photographic evidence.** You may present evidence through your own  
11 testimony and through the testimony of witnesses on your behalf. It is your responsibility to  
12 secure the attendance of your witnesses.

13 Additional information regarding rules for OAH, hearing procedures, preparing for your  
14 hearing, and frequently asked questions, may be found on OAH's website at [www.azoah.com](http://www.azoah.com).

15 **If you have filed any motions prior to the receipt of this Notice of Hearing, you must**  
16 **re-file the motions with the Office of Administrative Hearings (OAH) electronically or at**  
17 **the address listed above. With this notice, all oral and written communication should be**  
18 **directed to the OAH and a copy must be provided to the opposing party.**

19 **As the hearing is now scheduled before an Administrative Law Judge, there is no**  
20 **need by either party to copy the Arizona Department of Real Estate with motions,**  
21 **responses or further correspondence on the matter.**

22 Under the Americans with Disabilities Act (ADA), the Office of Administrative Hearings  
23 endeavors to ensure the accessibility of its hearings to all persons with disabilities. Persons with  
24 disabilities may request reasonable accommodations such as interpreters, alternative formats, or  
25 assistance with physical accessibility. Requests for accommodations should be made as early as  
26 possible to allow time to arrange the accommodations. If you require accommodations, please  
27 contact the Office of Administrative Hearings at (602) 542-9826.

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**QUESTIONS**

Any and all questions regarding the referenced case matter should be directed to OAH.  
For any and all general inquiries, please email [oah@azoah.com](mailto:oah@azoah.com). Their hours of operation are  
8:00am - 5:00pm Monday through Friday.

DATED this 27th day of June, 2025.

*Mandy Neat*  
\_\_\_\_\_  
MANDY NEAT  
Deputy Commissioner  
Arizona Department of Real Estate

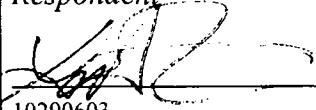
1 E-FILE of the foregoing this  
2 27 day of June, 2025, to:

3 ALJ Kay Abramsohn  
4 Office of Administrative Hearings

5 COPY mailed by First Class and  
6 Certified Mail on the 27 day of  
7 June, 2025, Return Receipts Requested to:

8 John F. Sullivan  
9 1909 East Ray Road, Ste 9198  
10 Chandler AZ 85225  
11 Receipt No.  
12 Email: [info@sullivanappeals.com](mailto:info@sullivanappeals.com)  
13 *Petitioner*

14 Sunland Springs Village  
15 4854 E Baseline Rd, Ste 104  
16 Mesa AZ 85206  
17 Receipt No.  
18 Email: [abaillio@hoalaw.biz](mailto:abaillio@hoalaw.biz)  
19 *Respondent*

20   
21 \_\_\_\_\_  
22 10290603

# **Plaintiff's Exhibit C**

Atty. John F. Sullivan  
1909 E. Ray Rd., Suite 9198  
Chandler, Arizona 85225  
(480) 818-5070  
Bar No. 023018  
Attorney for Petitioner

## **BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS STATE OF ARIZONA**

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

Petitioner

v.

**SUNLAND SPRINGS VILLAGE**  
**HOMEOWNERS ASSOCIATION,**

Respondent

No. 24F-H047-REL-RHG

**PETITIONER'S**  
**Peremptory Change of**  
**Administrative Law Judge**

**and**

**Hearing Date Request**

**Currently Assigned to:**  
**Honorable Kay Abramsohn**

1       NOW COMES SUSAN SULLIVAN, PETITIONER and TRUSTEE of AZNH  
2       REVOCABLE TRUST who hereby exercises a Peremptory Change of Administrative Law  
3       Judge pursuant to A.R.S. § 41-1092.07 (*eff.* Sept. 26, 2025), to remove Administrative Law  
4       Judge Kay Abramsohn from the above-captioned matter.

5       For any future proceedings in the above-captioned matter, undersigned counsel  
6       respectfully requests any such proceedings be set on or after December 15, 2025. As reasons  
7       therefore, the Trustees are traveling on a pre-planned, pre-paid, non-refundable trip out of  
8       Arizona and out of the U.S.A. beginning Sept. 27, 2025, and returning to Arizona November  
9       3, 2025. Moreover, upon return, counsel shall seek and serve subpoenas which are likely to  
10      be opposed by Respondent or recipients (or both) simply because they can do so. See Ariz.  
11      Admin. Code R2-19-113. Thus, additional time is needed to effect service and additional  
12      time may be needed to address any objections or opposition to issued subpoenas.

1 By and through counsel for Susan Sullivan, Petitioner/Trustee,  
2

3 Dated: September 26, 2025

*/s/ John F. Sullivan*

John F. Sullivan, Esq. (Bar # 023018)

Attorney for Petitioner

1909 E. Ray Rd. Suite 9198

Chandler, AZ. 85225

480-818-5070

email: Info@SullivanAppeals.com

10  
11 **CERTIFICATE OF SERVICE**

12 A copy hereof was served this date upon Respondent's counsel via email at  
13 cgallacher@hoalaw.biz under a prior agreement between counsel to accept filings and other  
14 correspondence by email.

15 A copy hereof was served this date upon the Director of the Office of Administrative  
16 Hearings ("OAH") via the OAH Electronic Submission System  
17 (<https://portal.azoah.com/submission/>).

18 */s/ John F. Sullivan*

John F. Sullivan, Esq. (Bar # 023018)

Attorney for Petitioner

## **Plaintiff's Exhibit D**

Atty. John F. Sullivan  
1909 E. Ray Rd., Suite 9198  
Chandler, Arizona 85225  
(480) 818-5070  
Bar No. 023018  
Attorney for Petitioner

### **BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS STATE OF ARIZONA**

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

Petitioner

v.

**SUNLAND SPRINGS VILLAGE**  
**HOMEOWNERS ASSOCIATION,**

Respondent

No. 24F-H047-REL-RHG

**PETITIONER'S  
SUPPLEMENT to  
Peremptory Change of  
Administrative Law Judge**

**Currently Unassigned**

#### TO THE DIRECTOR OF THE OFFICE OF ADMINISTRATIVE HEARINGS:

Late today, counsel for Respondent filed in the Tribunal a document entitled, "Respondent's Supplemental Response to Petitioner's Motion for Peremptory Change of Administrative Law Judge and Hearing Date Request." Therein, counsel references a document sent today to the Director of the Office of Administrative Hearings.

Petitioners did not file any *motions* today in the Tribunal. Generally speaking, a "motion" is a litigant's request for a court or a tribunal to exercise its judicial powers or judgment.

At midnight, last night (early morning of Sept. 26, 2025), a revised version of A.R.S. § 41-1092.07(A) became effective and it reads (unambiguously):

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

A.R.S. § 41-1092.07(A) (*eff.* September 26, 2025).

The legislature did not place any conditions on the exercise of this peremptory right, except that the a "party" is limited to "one peremptory change."

At about 12:13 a.m. today, Petitioner Susan Sullivan, acting through counsel, sent a document (specifically) to the Director of the Office of Administrative Hearings (“OAH”) through the OAH “Electronic Submission System” promptly exercising her statutory peremptory right requiring the Director to replace Kay Abramsohn as the assigned Administrative Law Judge. Concurrent with the peremptory submission, Petitioner’s counsel requested future hearing dates if no hearing were to be held today; it was not a motion to continue.

Ms. Sullivan’s exercise of her peremptory right does not, in any way, involve the exercise of judicial powers or judgment. Peremptory means:

1. Final; absolute; conclusive; incontrovertible.
2. Not requiring any shown cause; arbitrary.

Black’s Law Dictionary 1370 (12<sup>th</sup> ed. 2024).

Petitioner did not file a “motion” asking the Tribunal to take any action. The Tribunal has no role in replacing or assigning any administrative law judge. The Director of the OAH is now compelled, as a matter of law, to replace Kay Abramsohn as the assigned Administrative Law Judge.

Respectfully submitted, Susan Sullivan, Petitioner/Trustee.

By and through counsel,

Dated: September 26, 2025

/s/ *John F. Sullivan*

John F. Sullivan, Esq. (Bar # 023018)

Attorney for Petitioner

1909 E. Ray Rd. Suite 9198

Chandler, AZ. 85225

480-818-5070

email: Info@SullivanAppeals.com

### **CERTIFICATE OF SERVICE**

A copy hereof was served this date upon Respondent’s counsel via email at cgallacher@hoalaw.biz under a prior agreement between counsel to accept filings and other correspondence by email.

A copy hereof was served this date upon the Director of the Office of Administrative Hearings (“OAH”) via the OAH Electronic Submission System (<https://portal.azoah.com/submission/>).

/s/ *John F. Sullivan*

John F. Sullivan, Esq. (Bar # 023018)  
Attorney for Petitioner

# **Plaintiff's Exhibit E**

R2-19-117. Failure of Party to Appear for Hearing, AZ ADC R2-19-117

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Arizona Administrative Code

Title 2. Administration

Chapter 19. Office of Administrative Hearings

Article 1. Prehearing and Hearing Procedures

A.A.C. R2-19-117

R2-19-117. Failure of Party to Appear for Hearing

Currentness

If a party fails to appear at a hearing, the administrative law judge may proceed with the presentation of the evidence of the appearing party, or vacate the hearing and return the matter to the agency for any further action.

## **Credits**

Section adopted by final rulemaking at 5 A.A.R. 563, effective February 3, 1999 (Supp. 99-1).

Current through rules published in Arizona Administrative Register Volume 31, Issue 39 September 26, 2025. Some sections may be more current. See credits for details.

A.A.C. R2-19-117, AZ ADC R2-19-117

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