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6 Representing self

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

9  
10 Lisa Marx  
11 Plaintiff,

Case No. CV 2025-012980

12 vs.

13 Tara Condominiums Association, Inc.,

14 **PLAINTIFF'S RESPONSE IN**  
15 **OPPOSITION TO DEFENDANT'S**  
16 **MOTION TO STAY RULING ON**  
17 **PLAINTIFF'S MOTION TO**  
18 **COMPEL PRODUCTION OF**  
19 **DOCUMENTS FROM NON-PARTY**  
20 **COLBY MANAGEMENT**

Honorable Adele Ponce

21 Plaintiff Lisa Marx, appearing pro se, respectfully submits this Response in Opposition  
22 to Defendant Tara Condominiums Association's *Motion to Stay Ruling on Plaintiff's*  
23 *Motion to Compel Production from Non-Party Colby Management Pending Resolution of*  
24 *Defendant's Rule 12(c) Motion* (the "Motion to Stay"), filed May 27, 2026. The Motion to  
Stay should be denied.

The Motion to Stay rests entirely on a single premise: that Plaintiff's claims – and the

1 Colby discovery that supports them – are “derivative” claims belonging to the  
2 Association as a whole. This Court has already rejected that premise. On June 24, 2025,  
3 the Court (Warner, J.) denied the Association’s first motion to dismiss Plaintiff’s claims  
4 as derivative, holding that Plaintiff’s claims against the Association are *direct* claims to  
5 enforce her own rights as a member. The documents Plaintiff seeks from Colby go to  
6 those direct claims and will remain discoverable no matter how the Court rules on the  
7 Association’s contemporaneously filed Rule 12(c) motion. A stay would therefore  
8 accomplish nothing but delay – of a motion that is ripe today, with the discovery  
9 deadline only weeks away – while the Association continues to withhold records  
10 showing how the Board handled, and failed to properly account for, insurance  
11 proceeds it was obligated to manage and report.

### 12 I. RELEVANT BACKGROUND

13 On January 22, 2026, Plaintiff served a subpoena duces tecum on non-party Colby  
14 Management, the Association’s bookkeeping and management company. The  
15 subpoena sought the full accounting of the February 2024 insurance claim for 13601 N.  
16 Newcastle – including the Board directives, communications, and checks relating to the  
17 claim, and an explanation of why the claim is not reflected in the Association’s monthly  
18 financial statements.

19 Colby produced only partial documents. Plaintiff filed her Motion to Compel on March  
20 10, 2026, and filed two supplements (dated March 30, 2026 and April 1, 2026) that  
21 reported Colby’s later partial productions and narrowed the remaining disputed items.  
22 The Association responded on April 6, 2026, and Plaintiff filed her reply. The Motion to  
23 Compel has been fully briefed and ripe for decision.

24 More than seven weeks after its response – on May 27, 2026, the same day it filed its

1 Rule 12(c) motion—the Association filed the Motion to Stay, asking the Court to defer  
2 any ruling on the Motion to Compel until after it decides the Rule 12(c) motion. Under  
3 the Court’s scheduling order, as extended, discovery closes on June 14, 2026, and trial is  
4 set for October 14, 2026.

## 5 II. LEGAL STANDARD

6 The Court has broad discretion to manage discovery. *Brown v. Superior Court*, 137 Ariz.  
7 327, 331, 670 P.2d 725, 729 (1983). That discretion includes the discretion to *deny* a stay  
8 and to decide a discovery dispute that is ripe. The party asking the Court to defer a ripe  
9 motion bears the burden of justifying the delay. A stay pending a dispositive motion is  
10 appropriate only where the pending motion would actually moot or materially narrow  
11 the disputed discovery, and where the balance of burden and prejudice favors waiting.  
12 Where the predicate motion will not dispose of the claims the discovery supports, a  
13 stay serves only to postpone a decision the Court can and should make now. To the  
14 extent the Association relies on Rule 26(c), a protective order requires a particularized  
15 showing of “annoyance, oppression, or undue burden or expense”; generalized claims  
16 of inconvenience do not satisfy that standard.

## 17 III. ARGUMENT

### 18 A. The Motion to Stay rests on a premise this Court has already rejected.

19 The Motion to Stay’s only rationale is that the Colby discovery is “directed almost  
20 entirely at the derivative theories” challenged in the Rule 12(c) motion, such that  
21 deciding the Rule 12(c) motion first might “moot” the discovery. (Mot. at 1; Mot. §  
22 III.A.) Every step of that argument depends on characterizing Plaintiff’s claims as  
23 derivative.

24 This Court has already held they are not. On June 24, 2025, the Court (Warner, J.)

1 denied the Association's first partial motion to dismiss, ruling that Plaintiff's claims  
2 against the Association are not derivative – they are claims to enforce her own rights as  
3 a member under the Declaration, the Bylaws, and the Arizona Condominium Act. The  
4 Association does not get to relitigate that determination simply by re-filing the same  
5 theory under a new label.

6 Nor does *Iqtunheimr* change the analysis. *Iqtunheimr, LLC v. Val Vista Lakes Cmty. Ass'n*,  
7 2026 WL 369439 (Ariz. App. Feb. 10, 2026), the very decision the Association invokes,  
8 addressed common-area maintenance – a classic collective harm shared equally by  
9 every owner. Plaintiff's claims are different in kind. They assert her personal statutory  
10 right to open meetings under A.R.S. § 33-1248, her statutory right to inspect Association  
11 records under A.R.S. § 33-1258, and her claims that the Association improperly handled  
12 and failed to account for insurance proceeds in breach of its governing documents and  
13 the Arizona Condominium Act. Those are direct claims, and a motion built on  
14 common-area-maintenance authority does not reach them. A stay cannot be justified by  
15 a motion that rests on a premise the Court has already rejected.

16 **B. The Colby documents go to Plaintiff's direct claims and will remain discoverable**  
17 **however the Rule 12(c) motion is decided.**

18 A stay is warranted only if the pending motion would moot or materially narrow the  
19 disputed discovery. It would not. Even if the Court granted every word of the Rule  
20 12(c) motion, Plaintiff's direct claims would remain in the case – including her statutory  
21 right to open meetings under A.R.S. § 33-1248, her statutory right to inspect Association  
22 records under A.R.S. § 33-1258, and her claims that the Association mishandled and  
23 failed to properly account for insurance proceeds in breach of its governing documents  
24 and the Condominium Act. The Colby documents are evidence of those direct claims.

1 The documents at issue are not abstract “community-wide” financial records. They are  
2 the accounting and Board directives for a single, specific insurance payment: the  
3 \$3,097.79 that American Family Insurance paid on February 23, 2024 for water and  
4 building damage at 13601 N. Newcastle (claim no. 01-007-161024). Colby’s own records  
5 show those proceeds were never applied to the loss. Instead, the funds were moved  
6 into the Association’s Painting reserve (general ledger account 320) on December 31,  
7 2024, and the misdeposit came to light only because a different community (Edgewater  
8 Park) flagged it after the money had sat in the wrong account for roughly nine months.  
9 The American Family letter that accompanied the check stated that an “estimate of  
10 repairs” and a “Summary spreadsheet” were enclosed – documents that have never  
11 been produced.

12 Whether the Board directed that diversion, whether it did so in a properly noticed open  
13 meeting, and whether the transaction was accurately recorded and reported to owners  
14 are questions that go directly to Plaintiff’s open-meeting, records, and governing-  
15 document claims – none of which the Rule 12(c) motion touches. Because the discovery  
16 supports claims that will survive regardless of how the Rule 12(c) motion is decided,  
17 the entire predicate for a stay is absent.

18 **C. A stay would cause real prejudice with discovery about to close.**

19 The Association asserts that Plaintiff “cannot be prejudiced” by a stay. (Mot. § III.C.)  
20 That is wrong, and the calendar proves it. Under the Court’s scheduling order,  
21 discovery closes on June 14, 2026. The Motion to Compel has been pending since March  
22 10, 2026 and is fully briefed. A stay pending resolution of the Rule 12(c) motion – which  
23 the Association filed only on May 27, 2026, and which could take months to brief and  
24 decide – would guarantee that these documents are not produced until long after

1 discovery has closed, leaving Plaintiff no opportunity to obtain them, use them in  
2 deposition, or authenticate them for the October 14, 2026 trial.

3 The prejudice is compounded by the nature of the records. They concern events from  
4 2024 and a vendor that has since changed its financial-reporting presentation company-  
5 wide (from a cash to a modified-cash basis). Every additional month of delay increases  
6 the risk that records are lost, overwritten, or become harder to reconstruct. A stay  
7 would not preserve the status quo; it would erode Plaintiff's ability to obtain and use  
8 the very documents the Association has so far withheld.

9 The Association's suggestion that Plaintiff may simply "renew" the Motion to Compel  
10 later (Mot. § III.C.) ignores the calendar. With discovery set to close on June 14, 2026,  
11 there will be no meaningful "later" in which to obtain these documents through  
12 discovery. Plaintiff is entitled to have her ripe motion decided on its merits – now.

13 **D. Judicial economy favors deciding the ripe Motion to Compel now, not deferring**  
14 **it.**

15 The Association frames a stay as the efficient course. The opposite is true. The Motion  
16 to Compel is briefed and ready for decision. Resolving it now disposes of a discrete  
17 dispute and keeps the case on track for its October 14, 2026 trial. Granting a stay, by  
18 contrast, would freeze a ripe matter behind a dispositive motion that – for the reasons  
19 above – will not eliminate the discovery even if granted. That multiplies proceedings  
20 rather than reducing them and creates precisely the delay the Court's scheduling order  
21 was designed to prevent. If the Court harbors any concern that some narrow portion of  
22 the discovery could be affected by the Rule 12(c) ruling, the answer is to decide the  
23 Motion to Compel on its merits and tailor any production accordingly – not to defer the  
24 entire dispute past the close of discovery.

1 **E. The Association has not shown good cause and misstates the record.**

2 To the extent the Motion to Stay seeks protection under Rule 26(c), the Association has  
3 identified no specific burden on Colby beyond the ordinary obligation to produce  
4 responsive records Colby maintains in the regular course of business. Generalized  
5 assertions of inconvenience do not establish good cause for a protective stay.

6 The Association also repeats its theme that Plaintiff’s “current theory depends on  
7 documents she believes were transmitted to the Association’s board, not Colby.” (Mot.  
8 § III.C.) Colby’s own March 11, 2026 letter refutes that suggestion. Colby acknowledged  
9 that it “maintains the financial records and reports” for the Association based “on  
10 information supplied by the Association,” and that it “does not independently  
11 determine the Association’s budget or authorize deviations from that budget.” The  
12 Board directives and accounting entries that caused the \$3,097.79 to be moved into the  
13 Painting reserve are exactly the kind of records Colby received and maintained in the  
14 ordinary course of its bookkeeping duties – and they remain within Colby’s possession,  
15 custody, or control.

16 **IV. CONCLUSION**

17 For the foregoing reasons, Plaintiff respectfully requests that the Court *deny*  
18 Defendant’s Motion to Stay and proceed to rule on Plaintiff’s Motion to Compel  
19 Production of Documents from Non-Party Colby Management and the Supplements  
20 thereto.

21 DATED this 2nd day of June, 2026.

22  
23 Respectfully submitted,  
24

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7 **CERTIFICATE OF SERVICE**

8 I certify that on this 2nd day of June, 2026, I served a true and correct copy of the  
9 foregoing by the Court's electronic filing system and by email on counsel for  
10 Defendant:

11 Charles H. Oldham, Chuck.Oldham@chdblaw.com

12 Ari A. Bowhay, Ari.Bowhay@chdblaw.com

13 CHDB Law LLP, 1400 East Southern Avenue, Suite 400, Tempe, Arizona 85282

14 /s/ Lisa Marx

15 Lisa Marx  
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