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

9 LISA MARX, an individual,
10 Plaintiff,

11 vs.

12 TARA CONDOMINIUM ASSOCIATION,
13 an Arizona non-profit corporation; MARK
14 GOTTMANN, an individual; DENNIS
15 ANDERSON, an individual
16 Defendant.

Case No. CV2025-012980

**OBJECTION TO PLAINTIFF'S NOTICE
OF CHANGE OF JUDGE FOR CAUSE**

(Assigned to Honorable Adele Ponce)

(ORAL ARGUMENT REQUESTED)

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19 Defendant Tara Condominiums Association respectfully moves to deny Plaintiff's
20 Motion for Change of Judge for Cause under Rule 42.2 and A.R.S. § 12-409(B)(5). Plaintiff
21 identifies no facts that satisfy the statutory standard for disqualification and relies solely on
22 dissatisfaction with the Court's rulings. Arizona law is clear that such disagreement does not
23 constitute bias and cannot support removal of a judicial officer.

24 A party seeking disqualification for cause must show that, because of the judge's bias or
25 prejudice, a fair and impartial trial cannot be obtained. A.R.S. § 12-409(B)(5). Rule 42.2
26 requires the presiding judge to evaluate this showing under an objective standard. The cases

1 provided in the record uniformly confirm the high bar for disqualification. In *Stagecoach*
2 *Trails MHC, L.L.C. v. City of Benson*, 232 Ariz. 562, the Court of Appeals held that judges are
3 presumed impartial and that judicial rulings, even those a party considers erroneous or
4 unfavorable, do not establish bias. The court emphasized that disqualification requires
5 evidence of “a hostile feeling or spirit of ill-will,” not mere adverse decisions. Id. ¶ 21. At ¶¶
6 23–25, the court further explained that a series of rulings against a party does not show
7 prejudice and that the proper remedy for an incorrect ruling is appellate review, not removal of
8 the judge.

9 Plaintiff cites no authority supporting her motion and offers an affidavit that improperly
10 contains legal argument and case discussion rather than factual assertions based on personal
11 knowledge. Affidavits submitted under Rule 42.2 must present competent evidence
12 establishing a factual basis for alleged bias. Legal conclusions, argument, or statements
13 expressing disagreement with the Court’s interpretation of the law do not satisfy that
14 requirement and carry no evidentiary weight. Plaintiff’s filings therefore provide no competent
15 evidence of prejudice under A.R.S. § 12-409(B)(5).

16 Plaintiff’s affidavit alleges no extrajudicial conduct, personal interest, relationship,
17 hostility, or source of bias. Every allegation rests exclusively on judicial rulings denying
18 injunctive relief, denying leave to amend, or declining to revive claims against individual
19 defendants. These are ordinary judicial determinations. As *Stagecoach Trails* explains,
20 opinions formed in the course of judicial proceedings are not evidence of bias unless they
21 reveal deep-seated antagonism or favoritism that would render fair judgment impossible.
22 Judicial rulings, even if strongly expressed or later found erroneous, are not grounds for
23 disqualification and do not overcome the presumption of impartiality.

24 This Court should also reject Plaintiff’s request because allowing a change of judge
25 based solely on dissatisfaction with rulings would undermine the orderly administration of
26

1 justice. The appellate courts have repeatedly warned that treating adverse decisions as evidence
2 of bias would encourage improper judge-shopping, permit parties to “test the waters,” and
3 erode the stability and independence of judicial assignments. *Stagecoach Trails* makes clear
4 that bias must generally stem from an extrajudicial source and that judicial conduct within the
5 case supports disqualification only where it displays such extreme antagonism that fair
6 judgment is impossible. A challenge under § 12-409(B)(5) therefore demands factual support
7 creating a bona fide apprehension of bias, not reliance on prior rulings or case management
8 decisions that fall squarely within the judge’s role.

9 Because Plaintiff has not alleged, let alone demonstrated, any facts that would cause a
10 reasonable person to question Judge Warner’s impartiality, her motion fails under both § 12-
11 409(B)(5) and Rule 42.2. The record shows nothing more than disagreement with decisions
12 made in the normal course of this litigation, which is insufficient as a matter of law.

13 For these reasons, Defendants respectfully request that the Court deny Plaintiff’s
14 Motion for Change of Judge for Cause.

15 RESPECTFULLY SUBMITTED this 5th day of December, 2025.

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17 **CHDB LAW LLP**

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1 **ORIGINAL** of the foregoing e-filed
this 5th day of December, 2025.

2
3 **COPY** of the foregoing mailed/e-mailed
this 5th day of December, 2025, to:

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7 By: /s/ Suzanne Hilborn

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