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Colette McNally

**IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION ONE**

COLETTE MCNALLY,

Plaintiff/Appellant,

-vs-

SUN LAKES HOMEOWNERS
ASSOCIATION #1, INC., an Arizona
non-profit corporation,

Defendant/Appellees.

COURT OF APPEALS
CASE NO.: 1 CA-CV-15-0744

MARICOPA COUNTY
SUPERIOR COURT
CASE NO. CV2014-009496

JUDGE ASSIGNED:
The Honorable James T. Blomo

**APPELLANT'S REPLY IN
SUPPORT OF MOTION TO
ACCELERATE APPEAL
PURSUANT TO ARCAP 29(a)(2)**

Appellant, Colette McNally ("Appellant"), hereby replies to the Response filed by defendant/appellee, Sun Lakes Homeowners Association #1, Inc. (the "Association").

In her Motion to Accelerate Appeal, Ms. McNally argues that it is

important for her to obtain expedited consideration of her appeal because her term ends in February 2017. Rather than respond to this limited argument, the Association reargues the merits of its Answering Brief. Specifically, the Association argues that Ms. McNally violated her duty of loyalty and confidentiality as a Director, that the Association offered to allow Ms. McNally to participate in executive sessions if she would maintain confidentiality and that Ms. McNally still has pending claims for damages.

Ms. McNally disputes these assertions. She did not violate her duty of loyalty and confidentiality as a Director. If anything, the Association's Board breached *their* duties by putting their own interests above the Association's interests by repeatedly violating the Open Meeting Law. As for the Association's "offer" to allow Ms. McNally back in executive meetings, that "offer" was contingent upon Ms. McNally admitting that the Martens E-Mail was false – which admission would have potentially subjected Ms. McNally to a defamation claim herself. Finally, the fact that Ms. McNally has pending claims for damages does not diminish her need to have the appeal expedited. Those claims have nothing to do with her right to obtain injunctive relief to regain her directorship privileges.

Ms. McNally will not belabor these points and the other points raised by the Association not pertinent to this motion but instead refers this Court

to the appellate briefing. Suffice it to say, Ms. McNally has remained steadfast regarding her intent to simply follow the law despite the Association's goal of stopping Ms. McNally from disclosing violations of the Open Meeting Law.

The fact remains, Ms. McNally has diligently pursued her claims for injunctive relief since the time she filed her Complaint. Although Ms. McNally is not armed with the Association's vast resources, Ms. McNally filed her Complaint, took discovery, filed a Motion for Summary Judgment, filed a Motion for Preliminary Injunction, took further discovery, litigated her claim at an evidentiary hearing, tried to petition this Court for special action relief, requested expedited relief thereon, pursued this appeal once her Petition for Special Action was denied, and has again moved for expedited relief. Ms. McNally has incurred significant expense litigating this claim.

The Association has failed to articulate any reason whatsoever how expedited relief prejudices its position but instead objects to expedited relief relying on non-pertinent arguments. Ms. McNally is significantly prejudiced the longer it takes to resolve her appeal because her term ends in February 2017.

Since the Association is not prejudiced at all by an expedited consideration of this appeal and only benefits from the delay, Ms. McNally

respectfully requests that this Court exercise its discretion and grant her Motion for an Accelerated Appeal Pursuant to ARCAP 29.

DATED this 29th day of April, 2016.

CHEIFETZ IANNITELLI MARCOLINI, P.C.

By: /s/ Jacob A. Kubert
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ORIGINAL of the foregoing e-filed with the Court of Appeals and a **COPY** mailed and e-mailed this 29th day of April, 2016, to:

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