

1 **SHAW & LINES, LLC**

2 4523 E. Broadway Road

3 Phoenix, AZ 85040

4 Phone (480) 456-1500

5 www.shawlines.com

6 Augustus H. Shaw IV, SBN 021593

7 *Attorneys for Defendants*

8 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**

9 **IN AND FOR THE COUNTY OF MARICOPA**

10 SANDRA RODRIGUEZ,

11 Plaintiff,

12 **Case No. CV2024-005940**

13 v.

14 **DEFENDANTS' RESPONSE TO**
15 **PLAINTIFF'S MOTION TO REPORT**
16 **IMPROPERT (SIC) SERVICE AND**
17 **REQUEST FOR DEFAULT**
18 **JUDGEMENT OR SANCTION FOR**
19 **DECEPTIVE AND UNETHICAL**
20 **CONDUCT, CONT. (SIC)**
21 **OBSTRUCTION OF JUSTICE**

22 FOCUS HOA MANAGEMENT, LLC,
23 LLC, an Arizona limited liability company;
24 HARMAN CADIS; BROOKE SORTOR;
25 AND ANNA SCHULTZ,
26 GARDENS/GILBERT COMMUNITY
27 ASSOCIATION, an Arizona non-profit
28 corporation,

29 Defendants.

30 Defendant Gardens/Gilbert Community Association (hereafter, "Gardens"), Focus
HOA Management, LLC (hereafter, "Focus HOA"); Harman Cadis, an employee of Focus
HOA Management, LLC (hereafter, "Cadis") and Brooke Sortor, an employee of Focus
HOA Management, LLC (hereafter, "Sortor and together with Gardens, Focus HOA and
Cadis collectively referred to herein as "Defendants"), by and through undersigned
counsel, hereby provides this Response to Plaintiff's Motion To Report Improper (Sic)
Service and Request For Default Judgement or Sanction For Deceptive And Unethical

1 Conduct, Cont. (Sic) Obstruction of Justice (hereafter, the “Motion”) filed on November
2 4, 2024.

3
4 **MEMORANDUM OF POINTS AND AUTHORITIES**

5 **I. THE MOTION SHOULD BE DENIED BECAUSE THE PLAINTIFF**
6 **SPECIFICALLY REQUESTED TO NOT BE COMMUNICATED**
7 **WITH VIA ELECTRONIC MEANS.**

8 It appears the Plaintiff, in her Motion, is requesting that the Court vacate the
9 Judgment entered by this Court on August 30, 2024, pursuant to Rule 60, Ariz. R. Civ.
10 P., due to improper service of pleadings, motions and other documents; specifically,
11 because said pleadings, motions and other documents were not served electronically. The
12 Plaintiff also requests that the lawsuit be dismissed and that sanctions be imposed on the
13 Defendants and their counsel.

14 Plaintiff alleges that service of pleadings, motions and other documents were not
15 properly effectuated because the Defendants failed to provide electronic copies of
16 pleadings, motions, and other documents to Plaintiff. Plaintiff, fails to mention that she
17 expressly prohibited the Defendants from contacting her via electronic means and
18 demanded that all pleadings, motions, and other documents be sent to her by U.S. mail.
19 (See e-mail correspondence attached as **Exhibit A**). Plaintiff, on page 2 of Exhibit A
20 writes:

21 I request that legal counsel and defendants cease all email communication
22 with me moving forward. All matters will be addressed in front of a judge
23 once the hearing date is set by the court... I do not consent to Augustus or
24 his law firm emailing me at my personal email address or any other address
25 due to the hostile harassment and retaliation I continue to endure.

26 Plaintiff again reiterates her prohibition regarding electronic communications on
27 page 2 of her Motion where she states:

28 Rule 5(b)(2)(E) of the Arizona Rules of Civil Procedure requires that service
29 by electronic means, including email, is valid only if the receiving party has
30 expressly agreed to electronic service in writing (**which Plaintiff has
neither authorized nor agreed to**) or if otherwise ordered by the Court.
Defendant's counsel's repeated failures to adhere to this rule. (Emphasis
Added)

1 As seen in Exhibit A and in the above, Plaintiff chides the Defendants' attempt to
2 communicate with her via electronic means while, at the same time, saying she was
3 harmed by the Defendants' failure to communicate with the Plaintiff via electronic means.
4 Plaintiff's arguments are the definition of duplicitous.
5

6 While there is no Rule 5(b)(2)(E), Arizona Rules of Civil Procedure as the Plaintiff
7 cites in her Motion, there is Rule 5(c)(2), Ariz. R. Civ. P., which states:
8

9 A document is served under this rule by any of the following: ... mailing it
10 by U.S. mail to the person's last-known address--in which event service is
11 complete upon mailing.

12 Rule 5 Ariz. R. Civ. P. does not mandate electronic service of pleadings, motions,
13 and other documents. Mailing pleadings, motions and other documents under Rule 5 Ariz.
14 R. Civ. P. is completely acceptable.
15

16 Plaintiff, in Exhibit 1 of the Plaintiff's Motion, asserts that all documents discussed
17 in Exhibit 1 were sent to her via U.S. mail. Plaintiff, on page 3 of Exhibit 1 states:

18 All of the documents listed above (in Exhibit 1) were certified as
19 electronically filed but were, in fact, not served electronically to Plaintiff.
20 **Instead, they were deceptively mailed alongside other motions, likely**
21 **to obscure the omission and prevent Plaintiff from recognizing the**
22 **improper service.**

23 Despite the Plaintiff's false statements concerning deception, Plaintiff, by her own
24 admission, states that she received all pleadings, motions, and other documents via U.S.
25 Mail; which complies with Rule 5(c)(2), Ariz. R. Civ. P.

26 Moreover, on page 3 of the Motion, Plaintiff further admits that the Defendants
27 counsel mailed her all pleadings and motions.

28 It is painfully clear that the Plaintiff is trying to pull a fast one on the Court.
29 Plaintiff in her Motion fully admits that she received all pleadings, motions, and other
30 documents via U.S. mail. Also, it has been clearly shown that the Plaintiff expressly

1 forbade the Defendants from communicating with her via electronic means. Therefore,
2 the Plaintiff has not suffered any prejudice or harm and the Defendants request that the
3 Motion be denied.

4 **II. CONCLUSION.**

5 The Plaintiff has shown a clear pattern of filing repetitive and frivolous motions
6 before the Court. The Defendants respectfully and strenuously request that the Court deny
7 the Plaintiff's Motion. The Defendants also request an award of their attorney's fees and
8 costs incurred to respond to this Motion.

9
10 DATED this 13th day of November, 2024.

11 **SHAW & LINES, LLC**

12
13 /s/ Augustus H. Shaw, IV
14 Augustus H. Shaw IV, Esq., CCAL
15 4523 E. Broadway Road
16 Phoenix, Arizona 85040
17 *Counsel for Defendants*

18 ORIGINAL submitted for electronic filing
19 This 13th day of November 2024 with:

20 Clerk of the Court
21 Maricopa County Superior Court

22 COPY mailed This 13th day
23 of November 2024 to:

24 Sandra Rodriquez
25 4735 E Besty Lane
26 Gilbert, AZ 85206

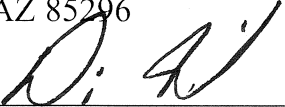
27 By: /s/ 

EXHIBIT A

Elizabeth Mundall

From: Augustus Shaw
Sent: Thursday, May 16, 2024 10:42 AM
To: Sandra Rodriguez
Cc: Harman Cadis; Brooke Sortor; Focus Info; Elizabeth Mundall; Diane Fincher
Subject: RE: Subject: Cease and Desist Request Regarding Email Communication

Importance: High

Ms. Rodriguez,

I am in receipt of your below e-mail where you state:

I do not consent to Augustus or his law firm emailing me at my personal email address or any other address due to the hostile harassment and retaliation I continue to endure.

As such, as you have instructed, Shaw & Lines, LLC will not communicate with you via e-mail regarding Rodriguez v. Gardens/Gilbert Community Association et al. Case No. CV2024-005940 or any other matter from this point forward. The Firm will also cease from receiving e-mails from you regarding Rodriguez v. Gardens/Gilbert Community Association et al. Case No. CV2024-005940 in order to ensure your demand is adhered to.

Augustus H. Shaw IV†*
Shaw & Lines, LLC
4523 E. Broadway Road
Phoenix, AZ 85040
Phone 480-456-1500
Fax 480-456-1515
e-mail ashaw@shawlines.com
web site www.shawlines.com

†Licensed in Arizona and Nebraska

*Faculty Associate Adjunct Professor - Arizona State University O'Connor College of Law

*Member, College of Community Association Lawyers

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THIS FIRM MAY ACT AS A DEBT COLLECTOR. ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE.

From: Sandra Rodriguez <sandra.rodriguez0339@gmail.com>
Sent: Wednesday, May 15, 2024 5:00 PM
To: Augustus Shaw <ashaw@shawlines.com>

Cc: Harman Cadis <harman@focushoa.com>; Brooke Sortor <Brooke@focushoa.com>; Focus Info <info@focushoa.com>
Subject: Subject: Cease and Desist Request Regarding Email Communication

Dear Legal Counsel, Gilbert Gardens Community Association, Focus HOA, and Associates,

I am writing to address the recent communication regarding the cessation of email correspondence and the directive to send all future communication via U.S. Mail. This action is perceived as a form of harassment, especially considering the ongoing legal proceedings and my recent request for an emergency order for harassment from the court.

It is imperative to clarify that my requests for information are well within my legal rights as a good-standing HOA member. I request that legal counsel and defendants cease all email communication with me moving forward. All matters will be addressed in front of a judge once the hearing date is set by the court.

Please be aware that I will continue to exercise my right to communicate via email regarding HOA-related requests, as it is common practice for all owners. Any attempt to discriminate or retaliate against me for expressing concerns about the current election and attempts to continue to infringe of my rights, and silence me are unacceptable. Please note: if Gardens Gilbert Community Association/Board of Directors, Focus HOA, and Associates refuse to address issues I will respect that; however, again it will be addressed further in civil court.

Furthermore, I remind all parties involved that there are federal, state, and local laws in place to protect individuals like myself, regardless of representation status or legal actions taken.

I do not consent to Augustus or his law firm emailing me at my personal email address or any other address due to the hostile harassment and retaliation I continue to endure.

Thank you for your attention to this matter.

Sincerely,

Sandra Rodriguez

Elizabeth Mundall

From: Elizabeth Mundall
Sent: Tuesday, April 23, 2024 5:41 PM
To: sandra.rodriguez0339@gmail.com
Cc: Augustus Shaw
Subject: Rodriguez v. Gardens/Gilbert Community Association et al. - Case No. CV2024-005940
Attachments: Motion to Strike Response to Def's Reply to Motion to Retain Members.pdf

Good afternoon,

Attached please find Defendants' Motion to Strike Plaintiff's Response to Defenant's Reply to Motion to Retain Board Members that was filed with the court today.

A copy is being mailed to you as well.

Thank you.

Liz Mundall
Paralegal
SHAW & LINES, LLC
4523 E. Broadway Road
Phoenix, Arizona 85040
Phone 480-456-1500
Fax 480-456-1515
www.shawlines.com

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Diane Fincher

From: Diane Fincher
Sent: Wednesday, April 17, 2024 2:10 PM
To: Sandra Rodriguez
Cc: Augustus Shaw
Subject: Rodriguez v. Gardens/Gilbert Community Association et al. - Case No. CV2024-005940
Attachments: Defendants' Reply in Support of Partial Motion to Dismiss.pdf

Good afternoon,

Attached please find Defendants' Reply in Support of Patial Motion to Dismiss filed with the court today. A copy is being mailed to you as well.

Thank you.

Diane Fincher
Legal Assistant
SHAW & LINES, LLC
4523 E. Broadway Road
Phoenix, Arizona 85040
Phone: 480-456-1500
Fax: 480-456-1515
www.shawlines.com

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