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Today's Date:

12/18/24

*[Handwritten Signature]*  
Your Signature

**This page must be completed and attached  
to the LAST page of your Motion/Request**

I filed the ORIGINAL of the attached document(s) with the Clerk of the Superior Court in Maricopa County on: December 18, 2024  
Month Date Year

I mailed/delivered a COPY of the attached document(s) to the Judicial Officer assigned to my case, Judge (or Commissioner): Coffey, on December 18, 2024 (Judicial Officer assigned to your case)  
Month Date Year

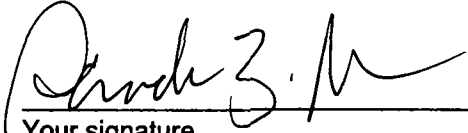
I mailed/delivered a COPY of the attached document(s) on this date:  
December 18, 2024 To: Gardens Gilbert Community Association et. al  
Month Date Year

***(You must mail a copy of all documents to the other side and his/her lawyer)***

<u>Gardens Gilbert Community Association et. al</u> Name of Other Side	<u>Shaw &amp; Lines, LLC/Augustus H. Shaw IV</u> Name of Other Side's Lawyer
<u>4135 S. Power Road, Ste. 133</u> Address	<u>4523 E. Broadway Road</u> Lawyer's Address
<u>Mesa, Arizona 85212</u> City, State, Zip	<u>Phoenix, Arizona 85040</u> City, State, Zip

**By signing below, I state to the Court, under penalty of law, that the information stated on these pages is true and correct to the best of my knowledge and belief.**

**I further state that I have filed/mailed the attached document(s) as shown above. I understand that if I do not file/mail the attached document(s) as shown above, the judge in my case will not read my request/motion.**

  
\_\_\_\_\_  
Your signature

## **ADDENDUM A:**

### **MOTION FOR DEFAULT JUDGEMENT PURSUANT**

#### **RULE 55(a)**

#### **TO THE HONORABLE JUDGE COFFEY:**

Plaintiff Sandra Rodriguez, appearing pro se, respectfully moves this Court to enter default judgment against Defendants Gardens Gilbert Community Association et al. pursuant to Rule 55(a) of the Arizona Rules of Civil Procedure. Plaintiff further requests sanctions and relief for Defendants' egregious violations of procedural rules, including their untimely filing of a verified answer, abusive litigation tactics, and infringements on Plaintiff's civil and constitutional rights.

#### **FACTUAL BACKGROUND**

##### **1. Verified Answer Filed Untimely**

- Defendants filed their verified answer in December 2024, nearly seven months after being served with the complaint in May 2024 and re-served through the Maricopa County Sheriff's Office on June 19, 2024 (See Exhibit #1). Under Rule 12(a)(1)(A) of the Arizona Rules of Civil Procedure, Defendants were required to file their answer within 20 days of service, absent a court-approved extension. No such extension was sought or granted, rendering Defendants' verified answer untimely and procedurally improper. (Non compliance Rule 114; Plaintiff moves to Default Proceedings Per Rule 146)
- **Example of Non-Compliance:** Despite Plaintiff's November 2024 motion documenting Defendants' obligations under Rule 12(a), Defendants provided no explanation or sought an extension, showing willful neglect of court rules.

- Issues with Defendant's Answer: The verified answer fails to directly respond to Plaintiff's allegations as required by Rule 8(b). It relies on generalized denials and fails to provide factual support or affirmative defenses, violating procedural standards and prejudicing Plaintiff's ability to litigate effectively.

## **2. Improper Service of Filings**

- Plaintiff filed a Motion to Report Improper Service and Request for Default Judgment on November 4, 2024, detailing Defendants' failure to properly serve at least 12 critical documents in accordance with Rule 5(b)(2)(E) and Arizona Code of Judicial Administration Section 1-901. This repeated improper service materially prejudiced Plaintiff's ability to respond effectively to filings.
- **Example of Non-Compliance:** Defendants failed to properly serve key filings, including a motion submitted on October 10, 2024, which was neither electronically served to Plaintiff nor properly documented. Plaintiff was unaware of the filing, depriving her of an opportunity to respond.

## **3. Defendants' Pattern of Abusive Litigation Tactics**

- Defendants engaged in a deliberate pattern of excessive delays, improper service, and repetitive, non substantiative motions. These actions imposed undue procedural burdens on Plaintiff, obstructed the administration of justice, and caused unjustified delays in the resolution of the case.
- **Example of Abusive Tactics:** Defendants filed a motion for dismissal in July 2024 that recycled identical arguments from a previously denied motion in June 2024, demonstrating bad faith and unnecessarily prolonging litigation.

## LEGAL ARGUMENTS

### 1. Failure to Comply with Rule 55(a): Default Judgment is Required

- Defendants' untimely filing violates Rule 12(a) and justifies default judgment under Rule 55(a). Arizona courts have consistently enforced these rules. For example, in *Precision Components, Inc. v. Harrison*, 167 Ariz. 552, 558 (App. 1991), the court affirmed a default judgment when a party failed to timely respond without valid justification, emphasizing the importance of procedural compliance. Similarly, in *Martin v. Sears, Roebuck & Co.*, 180 Ariz. 429, 433 (App. 1994), the court upheld sanctions for delay tactics that caused unnecessary prejudice to the opposing party. These precedents align with the present case and underscore the necessity of granting relief. Their delay disrupted the orderly progress of litigation and significantly prejudiced Plaintiff by increasing costs and delaying relief. Arizona courts have upheld default judgments for comparable violations, including failure to comply with filing deadlines (See *Daou v. Harris*, 139 Ariz. 353, 356 (1984)).

### 2. Civil and Constitutional Rights Violations

#### a. Denial of Due Process

- Defendants repeated procedural violations deprived Plaintiff of her constitutional right to due process, which requires meaningful participation in legal proceedings. Improper service and late filings effectively barred Plaintiff from responding to motions and pursuing timely relief.
- **Example of Violation:** The failure to serve the October 10, 2024 motion deprived Plaintiff of notice and the opportunity to challenge its contents.

**b. Obstruction of Justice**

- Defendants' tactics obstructed the court's ability to efficiently resolve this case, violating Plaintiff's constitutional right to a fair process.
- **Example of Obstruction:** Delaying their verified answer until December 17, 2024 created months of case stagnation, further prejudicing Plaintiff's position.

**c. Exploitation of Pro Se Plaintiff**

- Defendants' intentional delays and improper service unfairly disadvantaged Plaintiff as a pro se litigant. These actions undermined the judicial process and Plaintiff's right to equal justice, implicating equal protection laws under the 14th Amendment.
- **Example of Exploitation and Disparate Treatment:** Defendants failed to properly serve Plaintiff with critical filings, such as the October 10, 2024 motion, while providing timely service to other represented parties in related matters. This deliberate discrepancy reflects an intent to disadvantage Plaintiff as a pro se litigant, depriving her of an equal opportunity to respond and participate in proceedings.
- **Precedent Supporting Equal Protection Claims:** In *Schwartz v. Board of Bar Examiners*, 353 U.S. 232 (1957), the Court emphasized the principle that all litigants, regardless of representation, are entitled to fair treatment under the law. Additionally, *M.L.B. v. S.L.J.*, 519 U.S. 102 (1996), affirmed that denying procedural rights based on socioeconomic or representational status violates the Equal Protection Clause. These cases reinforce the Plaintiff's argument that Defendants' actions amounted to discriminatory treatment, impeding her access to justice.

**3. Lack of Excusable Neglect**

- Defendants' misconduct does not qualify as excusable neglect under Arizona standards, which require reasonable diligence and unavoidable circumstances (*Ellman Land Corp. v. Maricopa County*, 180 Ariz. 331, 336 (1994)). Defendants displayed

intentional disregard for court rules by failing to request extensions or provide valid reasons for their delays. Their conduct indicates gross negligence and bad faith.

- **Specific Examples Refuting Excusable Neglect:** Despite multiple notices and motions filed by Defendants, represented by experienced legal counsel Shaw, failed to respond or take any corrective action. As seasoned attorneys, they were fully aware of their legal and procedural obligations under Arizona law. This deliberate inaction demonstrates a clear disregard for their responsibilities and undermines the integrity of the judicial process.

While Defendants justify their significant procedural mishaps, such as their failure to timely file a Verified Answer and to comply with service requirements, they simultaneously impose strict procedural oversight on Plaintiff, a pro se litigant. For instance, Defendants have repeatedly highlighted minor technical issues in Plaintiff's filings as grounds for dismissal or other punitive measures, while disregarding their own egregious violations. This double standard creates an uneven playing field, unfairly disadvantaging Plaintiff and undermining her access to justice.

Defendants did not file a motion to extend the filing deadline, nor did they provide evidence of unavoidable circumstances that might justify their delay. After being reserved on June 19, 2024, they waited nearly six months—until December 2024—to file their Verified Response. This extended and unexplained delay caused significant procedural prejudice to Plaintiff, obstructing her ability to effectively litigate her claims and unnecessarily prolonging the case.

These actions, coupled with the inequitable treatment of Plaintiff's filings, indicate intentional procrastination, bad faith, and a misuse of procedural rules to disadvantage a pro se litigant. Such behavior does not constitute inadvertent oversight or excusable neglect under Arizona law and warrants appropriate sanctions to restore fairness and accountability.

- **Defendants' misconduct does not qualify as excusable neglect** under Arizona standards, which require reasonable diligence and unavoidable circumstances (Ellman Land Corp. v. Maricopa County, 180 Ariz. 331, 336 (1994)). Defendants displayed intentional disregard for court rules by failing to request extensions or provide valid reasons for their delays. Their conduct indicates gross negligence and bad faith.

#### 4. Sanctions Under Rule 11 and Ethical Rule 8.4

- Defendants violated Rule 11 by certifying filings that failed to comply with service and timeliness requirements. Their conduct also breaches Ethical Rule 8.4, which prohibits actions prejudicial to the administration of justice. Sanctions are warranted to deter further abuse and compensate Plaintiff for the resulting prejudice.
- **Specific Example:** Defendants falsely certified electronic service of their October 2024 filing, requiring court intervention and causing additional delays.

### RELIEF REQUESTED

Plaintiff respectfully requests that this Court:

1. **Enter Default Judgment under Rule 55(a)** in favor of Plaintiff for Defendants' failure to file a timely verified answer and violations of procedural rules.
2. ~~Exclude~~ **Defendants' Verified Answer** <sup>from the record</sup> as untimely and procedurally defective; *inadmissible*.
3. **Award sanctions against Defendants, including:**
  - Compensatory damages for Plaintiff's costs and time incurred due to Defendants' misconduct.
  - Punitive damages to deter further abusive and obstructive litigation tactics.
  - Reimbursement for procedural delays, court costs, filing fees, and expenses resulting from Defendants' non-compliance and improper service.

**4. Recognize Civil and Constitutional Rights Violations:**

- Affirm that Defendants' actions violated Plaintiff's due process rights under the 14th Amendment and obstructed justice.

**5. Nullify improperly served filings and motions under Rule 5(b)(2)(E) and ACJA Section 1-901.**

**6. Quash any judgments or orders imposed as a result of Defendants' infractions and obstructive tactics.**

**7. Impose additional sanctions under Rule 11 for Defendants' intentional disregard of procedural rules, including false certifications of electronic service.**

**CONCLUSION**

Defendants' verified answer, filed nearly seven months late, demonstrates a blatant disregard for the Arizona Rules of Civil Procedure, specifically Rule 12(a). This untimely filing, coupled with its generalized denials and lack of factual support, violates Rule 8(b) and fails to provide a meaningful defense. These deficiencies hinder Plaintiff's ability to litigate effectively and undermine procedural fairness.

The Defendants' pattern of improper service, intentional delays, and redundant motions has obstructed justice, prejudiced Plaintiff's due process rights, and created unnecessary financial and procedural burdens. By depriving Plaintiff of timely notice and participation in critical legal proceedings, Defendants have committed clear due process violations, as protected under the 14th Amendment.

Plaintiff Sandra Rodriguez respectfully requests that this Court recognize these violations, impose appropriate sanctions, and grant the relief outlined above to ensure the integrity of these proceedings and to restore fairness and justice.

Respectfully submitted this 18th day of December, 2024.

Sandra Rodrigues v. Gardens Gilbert Community Association (GGCA) et. al.

**Maricopa Superior Court Case No.:** CV2024-005940

**Appeals Court of Arizona (District One) Case No.:** 1 CA-CV 24-0803

**Supreme Court of Arizona Case No.:** CV 24-0286-PR

Sandra Rodriguez, Pro Se Plaintiff

**Attachments:**

- **Exhibit #1:** Maricopa County Sheriff's Office Confirmation of Service (dated 06/19/2024)

Sandra Rodriguez v. Gardens Gilbert Community Association et. al

**Maricopa Superior Court Case No.:** CV2024-005940

**Appeals Court of Arizona (District One) Case No.:** 1 CA-CV 24-0803

**Supreme Court of Arizona Case No.:** CV 24-0286-PR

# **EXHIBIT 1**

**MARICOPA COUNTY SHERIFF'S OFFICE**

Civil Process Section  
111 South 3rd Avenue, 2nd Floor  
Phoenix, Arizona 85003-2292

Sandra Rodriguez  
vs.  
Gardens Gilbert Community Association, Focus  
HOA, and Associates (Anna Shultz, Brooke Sortor,  
and Harmin Cadis)

STATE OF ARIZONA     )  
                                  ) ss.                   CV2024-005940  
County of Maricopa    )                   24005063

I hereby certify that I received the within documents on the 19th day of June A.D. 2024 at the hour of 9:19 AM, and served the same on the 21st day of June A.D. 2024 on Gardens Gilbert Community Association being said defendant(s) named in said documents, by delivering to Gardens Gilbert Community Association in person, at 4523 E. Broadway Road, Phoenix, AZ 85040 at 12:37 PM in the county of Maricopa, a copy of said Amendment Summons, Amendment Civil Complaint, Amended Certificate Of Compulsory Arbitration, Amended Plaintiff's Demand For Jury Trial..

Dated this 21st day of June A.D. 2024.

Service   \$16.00  
Mileage   \$16.80  
  
Total      \$32.80

RUSS SKINNER  
Maricopa County Sheriff

*K. Henry #S1459*  
By \_\_\_\_\_  
Deputy K. Henry #S1459