

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2024-005940

07/18/2025

HONORABLE DAVID MCDOWELL

CLERK OF THE COURT
K. Tiero
Deputy

SANDRA RODRIGUEZ

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4375 E BETSY LN
GILBERT AZ 85296

v.

GARDENS GILBERT COMMUNITY
ASSOCIATION, et al.

AUGUSTUS H SHAW IV

FOCUS H O A
NO ADDRESS ON RECORD
ANNA SCHULTZ
NO ADDRESS ON RECORD
BROOKE SORTER
NO ADDRESS ON RECORD
JUDGE MCDOWELL

RULING ON MOTION FOR CONTEMPT

Pending before the Court are:

- Plaintiff Sandra Rodriguez's May 19, 2025 *Motion Contempt of Court, Breach of Stay and Sanctions*;
- Defendant Gardens/Gilbert Community Association's June 11, 2025 *Response to Plaintiff's Motion Contempt of Court, Breach of Stay, and Sanctions*;
- Ms. Rodriguez's *Motion Contempt of Court, Breach of Contract Stay and Sanctions (Plaintiff Response to Defendants' Reply)* filed June 12, 2025;
- and a second reply filed by Ms. Rodriguez on June 12, 2025 entitled *Ms. Rodriguez's Motion Contempt of Court, Breach of Contract Stay and Sanctions (Plaintiff Response to Defendants' Reply)(Amend)* filed June 12, 2025;

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In Ms. Rodriguez's filings she alleges Defendants breached the Court's Stay Order by (i) created a hostile environment around her home, (ii) turned an architectural inquiry into a battleground, (iii) obstructed plaintiff's housing rights by failing to communicate with her by email, (iv) retaliated against her for asserting her civil rights, and (v) declined to communicate with her by email.

Plaintiff also argued the Court's judicial assistant directed her to stop including the Court on email communications.

In her request for relief Ms. Rodriguez requests Defendants and their counsel be found in contempt of court; the Court acknowledge Defendants have created a hostile, unsafe, and discriminatory environment; impose monetary penalties; order [Defendants] to produce all governing documents and architectural review policies; prohibition of in-person contact or third-party visits to Plaintiff's property; permission to copy the Court on further communications related to violations of the stay or housing rights; reaffirm the Court's commitment to equal access to justice.

Defendants' *Response* (in summary) denies that any violation of the stay occurred, denies that it directed a third party to contact plaintiff, and requests sanctions against plaintiff for her violations of the Court's order.

The reply argues issues not raised in the *Motion* or *Response* including failure to provide architectural forms, comments on the video evidence, constitutional violations, attorney misconduct, misrepresentation and bad faith conduct, abuse of process, and others.

As an initial matter, self-represented parties are held to the same standard as an attorney and are entitled to no more latitude. *Kelly v NationsBanc Mortg. Corp*, 199 Ariz. 284, 287 (2000). Many people without legal training successfully defend themselves in civil litigation but it requires diligence and research. While the Court understands the Rules of Civil Procedure and the cases interpreting them are voluminous and portions are complex, Ms. Rodriguez must become familiar with them and follow them in the future. One important point related to this set of filings is that a reply cannot raise new issues not raised in the original motion or the response. See Rule 7.1(a)(3) Ariz.R.Civ.Proc. The Court will not consider new issues raised in a reply.

Turning to the primary issue raised in this set of filings - has there been a violation of the stay order? Based upon the stay order issued, the Court finds there has not been a violation by Defendants. The stay order is much more narrow than Ms. Rodriguez interprets it to be.

Ms. Rodriguez's October 2024 Motion for Stay requested the following relief:

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For the reasons set forth above, Plaintiff/Appellant respectfully requests that this Court:

1. Issue an order staying the enforcement of the judgment entered on *August 26, 2024*, pending the resolution of her appeal; and
2. Waive the requirement for a supersedeas bond due to Plaintiff/Appellant's financial hardship, as demonstrated in the *Affidavit of Inability to Post Bond Pending Appeal* filed on October 7, 2024, and supported by the attached exhibits.

In December Judge Coffey granted that motion.

After a January 2025 hearing, Judge Coffey entered the following orders:

IT IS ORDERED plaintiff's Request to Stay Proceedings is granted. No further matters should be filed until the pending appeal is resolved. If either side files a motion during the stay the opposing side does not have to file a response without order of the Court.

Defendant requests that a Supersedes Bond be posted by Plaintiff to stay any enforcement actions by the dismissed defendants.

Discussion is held regarding Plaintiff's Affidavit of Inability to Post Bond (Second Attempt), filed December 17, 2024.

IT IS ORDERED that in light of Plaintiff's Affidavit of Inability to Post Bond (Second Attempt), filed December 17, 2024 and her testimony today, plaintiff is not required to post a Supersedes bond.

IT IS FURTHER ORDERED that the stay includes any enforcement actions of any claims of the dismissed defendants pending the outcome of the appeal.

Defendant requests that the Court grant the request for sanctions.

IT IS ORDERED Defendant's request for sanctions is denied.

The stay order precludes defendants from enforcing the judgment. The stay order waives the bond requirements of Ariz.R.Civ.App.Proc 7.

Judge Coffey's January 2025 Order also precludes the parties from filing any further motions. However, the stay order did not preclude the parties from engaging in any of the alleged behavior Ms. Rodriguez contends violated the order. Without an order prohibiting the behavior, engaging in that behavior cannot give rise to contempt sanctions.

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IT IS ORDERED denying Plaintiff's *Motion Contempt of Court, Breach of Stay and Sanctions*.

Plaintiff's allegations may give rise to recovery under some theory other than contempt or violation of the stay order, but this matter has been stayed. Once a notice of appeal is filed, the superior court generally loses jurisdiction to decide any issues or enter orders. See *Castillo v. Indus. Comm'n*, 21 Ariz. App. 465, 467 (1974). The superior court retains jurisdiction only over those matters in furtherance of the appeal. See *Aqua Mgmt., Inc. v. Abdeen*, 224 Ariz. 91, 93 n.3, ¶ 7 (App. 2010), or for conducting discovery to "preserve evidence for use in any later superior court proceedings in that action." Ariz.R.Civ.P.27(b); see also *Holm Dev. & Mgmt., Inc. v. Superior Court (Stevens/Leinweber/Sullens, Inc.)*, 161 Ariz. 376, 380 (App. 1989). The effect of the appeal and the stay order is that the Court has very limited authority to address issues raised by the parties. The appeal and the stay does not affect the parties' ability to proceed with the architectural request, to have repairs made, or to attempt resolution of the case. The appeal has a much greater limiting effect on the Court than the parties.

Depending on the outcome of the appeal, the substantive issues raised by Plaintiff will be addressed when the appeal has been concluded.

It is worth noting that many of the issues raised by Ms. Rodriguez and many of the defenses raised by Defendants in this set of filings require the Court to accept and evaluate evidence, evaluate the credibility of the person offering the evidence, and make reasonable inferences from the evidence presented. The Court cannot do any of those things based upon briefing alone. This is the reason Judge Coffey did not receive or consider the videos submitted. The receipt of testimony and evidence and the evaluation of the persons testifying and evidence occurs at an evidentiary hearing, not in written filings. The issues raised by both parties will be addressed once the appeal is concluded and the Court can conduct an evidentiary hearing.

Defendant requests an award of sanctions against Mr. Rodriguez related to this most recent set of filings. Defendant argues Plaintiff has violated the stay. The Court understands this is a contentious situation for all parties and the delay caused by the appeal is likely increasing frustrations, but the Court will defer ruling on the parties' requests for sanctions and fees until an evidentiary hearing can be held and all issues considered.

IT IS ORDERED deferring the issue of Defendants' request for sanctions.

Finally, let's address the issue of email communication. Court staff does not have the time to monitor communications between the parties in the cases assigned to the judge (each judge on the civil bench has more than 1000 cases assigned to him/her). Court staff generally does not relay those communications to the judge. Before the judge will consider anything in a case the party seeking consideration must file a request in writing with the Clerk of the Court. More importantly, the rules of evidence limit what communications between the parties are relevant and admissible evidence. Including court staff on communications creates a risk that the judge may become aware of things that he/she is precluded from knowing under the rules of evidence. Emails to court staff should be limited to providing the Court with advance copies of filings (this is only necessary if the filing occurs within five business days of a hearing) or the rules require a party to provide the

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Court with a copy because of the manner in which it is filed. Thus this Judge will reiterate the prior judge's assistant's direction that court staff not be included on email communications between the parties.

Many attorneys eschew email communications because there is no presumption of delivery like exists with delivery by mail. Communication by email (due to the ease at which messages can be sent) can lead to confusion and miscommunication. While communication by mail is more time consuming and more expensive, there are advantages to this method of communication including the presumption of delivery and typically people give greater thought and consideration to their message when they sit down to write a letter. There is nothing prejudicial about requiring communication by mail and it does not deprive an individual of access to justice.