

2025 SEP -5 AM 8:17

1 Sandra Rodriguez
2 4375 E. Betsy Lane
3 Gilbert, Arizona 85296
4 **Phone Number:** 602-688-9720
5 **Email Address:** sandra.rodriguez0339@gmail.com
6 **Representing:** Self Represented, without a Lawyer

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

9 SANDRA RODRIGUEZ,

10 **Plaintiff,**

11 vs.

12 GARDENS GILBERT COMMUNITY
13 ASSOCIATION, FOCUS HOA
14 MANAGEMENT, LLC, HARMIN CADIS,
15 BROOKE SORTOR, ANNA SCHULTZ

16 **Defendants,**

17 AUGUSTUS H. SHAW IV

18 **Defendant's Legal Counsel,**

19 **APPEALS COURT (DIVISION**
20 **ONE) Case No.: 1 CA-CV 24-0790; 1**
21 **CA-CV 25-0040 (Consolidated)**

22 **Maricopa County Superior Court**
23 **Case No.: CV2024-005940**
24 Judge David McDowell,

25 **PLAINTIFF'S MOTION FOR**
26 **EMERGENCY RELIEF**

27 (Continued Obstruction of Architectural
28 Approval; Health & Safety Emergency;
Discrimination and Retaliation)

TO THE HONORABLE JUDGE MCDOWELL:

I. INTRODUCTION

Pursuant to Rule 7.1 and Rule 65, Ariz. R. Civ. P., and after seeking Defendants' consent, Plaintiff moves this Court for emergency relief compelling Defendants to acknowledge and act upon her August 19, 2025 Architectural Request Form for roof replacement. Plaintiff further requests that this motion be promptly presented for immediate

1 consideration due to urgent health and safety risks, including water intrusion, toxic mold, and
2 ongoing personal injury.

3 Despite binding obligations under the **CC&Rs, Bylaws, Resolutions, and the Arizona**
4 **Planned Communities Act**, Defendants and their counsel, Augustus H. Shaw IV, have
5 deliberately obstructed the process, refused acknowledgment, and retaliated against Plaintiff.
6 Their continuing misconduct is not an isolated oversight but part of a pattern that has already
7 forced appellate intervention, where the Arizona Court of Appeals confirmed Plaintiff's right
8 to pursue discrimination and retaliation claims.

9 Accordingly, Plaintiff requests that Defendants' approval authority be compelled,
10 deemed waived, or suspended entirely until final judgment. Such relief is authorized under the
11 **Fair Housing Act (42 U.S.C. §§ 3604(b), 3617)**, which bars discriminatory or retaliatory
12 denial of housing services; **A.R.S. § 33-1817(B)**, requiring uniform and non-discriminatory
13 architectural review; and Arizona law imposing a duty of good faith (*Johnson v. Pointe Cmty.*
14 *Ass'n, Inc.*, 205 Ariz. 485 (App. 2003); **Restatement (Second) of Contracts § 205**). The
15 **Arizona Supreme Court** has confirmed courts' equitable power to enjoin unlawful conduct
16 where justice requires (*Shoen v. Shoen*, 167 Ariz. 58 (1991)). Defendants' willful
17 noncompliance and bad faith compel this Court to strip them of authority and prevent further
18 abuse of the architectural process as a tool of discrimination and retaliation.

19 **II. BACKGROUND**

- 20 • **August 19, 2025** – Plaintiff submitted her Architectural Request Form for roof
21 replacement with full supporting documentation, in compliance with the CC&Rs and
22 Architectural Guidelines.
- 23 • **September 2, 2025** – Plaintiff documented that 14 days had passed with no
24 acknowledgment, in violation of A.R.S. § 33-1817 and the CC&Rs.
- 25 • **September 4, 2025** – Plaintiff confirmed again that no acknowledgment or action was
26 taken by Defendants or Mr. Shaw.
27 .

1 To date, Defendants have continued to refuse acknowledgment of Plaintiff's submission
2 or compliance with their obligations. Meanwhile, Plaintiff has endured active roof leaks during
3 monsoon storms, causing mold growth, respiratory risks, and unsafe living conditions.

4 Mr. Shaw, acting as counsel, has obstructed and interfered with Plaintiff's request while
5 issuing legal correspondence designed to delay or avoid compliance. This conduct violates his
6 duties under the **Arizona Rules of Professional Conduct (ER 3.1, ER 4.4, ER 8.4)** and
7 constitutes obstruction, retaliation, and discriminatory treatment.

8 **III. GOVERNING DOCUMENTS AND LEGAL VIOLATIONS**

- 9
10 **1. CC&Rs & Resolutions:** Require ARC review and written decision within 45 days of
11 submission.
- 12 **2. Articles & Bylaws:** Impose fiduciary duties on the Board and management to act in good
13 faith and consistent with governing documents.
- 14 **3. A.R.S. § 33-1817(B):** Requires associations to apply architectural standards reasonably
15 and without discrimination.
- 16 **4. *Johnson v. Pointe Cmty. Ass'n, Inc.*, 205 Ariz. 485 (App. 2003):** HOAs must not act
17 arbitrarily or capriciously in reviewing architectural requests.
- 18 **5. Restatement (Second) of Contracts § 205 (duty of good faith):** Adopted in Arizona;
19 prohibits bad-faith obstruction.
- 20 **6. Federal Fair Housing Act, 42 U.S.C. § 3604(b):** Prohibits discriminatory housing
21 practices, including withholding services or approvals in retaliation.
- 22
- 23

24 The Arizona Court of Appeals has already confirmed Plaintiff's right to pursue claims
25 for discrimination and retaliation by granting amendment of her complaint. Defendants'
26 ongoing refusal to comply, despite appellate acknowledgment, magnifies the seriousness of
27 their misconduct.
28

1 **IV. TORT AND PERSONAL INJURY CLAIMS**

2
3 **Defendants’ willful obstruction and refusal to comply have caused:**

- 4 • **Negligence & Breach of Duty:** Failure to act reasonably to prevent property damage and
5 health risks.
- 6 • **Personal Injury Exposure:** Ongoing mold inhalation, respiratory harm, and unsafe living
7 conditions for Plaintiff and her children.
- 8
- 9 • **Punitive Damages under Arizona’s “Evil Mind” Standard: *Rawlings v. Apodaca*, 151**
10 **Ariz. 149 (1986)** authorizes punitive damages when a defendant consciously disregards
11 substantial risk of harm. Defendants’ refusal to act, despite repeated notice, demonstrates
12 such “*evil mind*.”
- 13 • **Additional Tort Liability:** For intentional infliction of emotional distress, breach of
14 fiduciary duty, and civil conspiracy between the Board, management, and legal counsel.

15 **V. LEGAL BASIS FOR EMERGENCY RELIEF**

16
17 Plaintiff satisfies the **Rule 65** preliminary injunction standard:

- 18 1. **Irreparable Harm** – Ongoing water intrusion and mold are causing immediate injury
19 to Plaintiff’s health, safety, and property.
- 20 2. **Likelihood of Success** – Defendants’ noncompliance with A.R.S. § 33-1817 and the
21 CC&Rs is undisputed, and Plaintiff’s right to pursue discrimination and retaliation
22 claims has already been confirmed by the Court of Appeals.
- 23 3. **Balance of Equities** – Plaintiff faces severe health risks and property damage, while
24 Defendants face only the obligation to comply with the governing documents and law.
- 25 4. **Public Interest** – Protecting homeowners’ statutory rights, ensuring good faith in HOA
26 governance, and enforcing ethical conduct by attorneys.
- 27
28

1 **VI. LEGAL BASIS FOR EMERGENCY RELIEF**

2
3 Plaintiff satisfies the standards for emergency relief under **Rule 65, Ariz. R. Civ. P.**,
4 supported by federal constitutional authority, Arizona constitutional protections, and binding
5 state precedent. The law requires that Defendants, including the HOA and their legal counsel,
6 act **promptly and in good faith** when a homeowner faces immediate health and safety threats.
7 Defendants’ continued refusal to acknowledge or process Plaintiff’s request violates not only
8 statutory and contractual duties but also the constitutional guarantees of due process and equal
9 protection.

10 **A. IRREPARABLE HARM**

11 Plaintiff and her family face **ongoing water intrusion, mold exposure, and unsafe living**
12 **conditions**, which constitute irreparable harm under **Rule 65**. Arizona courts have recognized
13 that equitable relief is warranted where health and safety are at risk (*Shoen v. Shoen*, 167 Ariz.
14 58 (1991)). Mold exposure and structural deterioration cannot be remedied by monetary
15 damages alone; swift intervention is required to prevent further injury. Defendants’ failure to
16 act quickly exacerbates this harm and directly contradicts their statutory duties.

17 **B. LIKELIHOOD OF SUCCESS ON THE MERITS**

- 18 **1. Statutory Violations – Under A.R.S. § 33-1817(B)**, HOAs must apply architectural
19 standards reasonably, uniformly, and without discrimination. Defendants’ refusal to act
20 violates this statute and independently supports injunctive relief.
- 21 **2. Governing Document Violations –** The CC&Rs and Resolutions require prompt
22 acknowledgment of architectural submissions and a written decision within 45 days.
23 Although 45 days have not passed, Defendants’ failure to provide any acknowledgment
24 already violates the **CC&Rs and A.R.S. § 33-1817(B)**, which mandate timely,
25 reasonable, and non-discriminatory review. Their silence reflects breach of contract,
26 breach of fiduciary duty, and bad faith.
- 27 **3. Discrimination and Retaliation – The Arizona Court of Appeals (Div. One, Aug. 12,**
28 **2025 Order)** confirmed Plaintiff’s right to amend her complaint to include discrimination
and retaliation claims and rejected Defendants’ duplicative filings. Under the law of the
case doctrine, these rulings are binding and demonstrate Plaintiff’s likelihood of success.

1 4. **Federal Protections – The Fair Housing Act (42 U.S.C. §§ 3604(b), 3617)** prohibits
2 withholding services due to discrimination or retaliation. Ignoring the architectural request
3 in the face of health risks implicates these provisions. Further, HUD guidance underscores
4 that delaying necessary repairs—especially those affecting habitability—is inconsistent
5 with fair housing obligations. HUD considers failure to perform maintenance or repairs a
6 prohibited practice under the FHA (e.g., failure or delay in maintenance services is
7 unlawful)

8 **C. BALANCE OF EQUITIES**

9 The balance of equities overwhelmingly favors Plaintiff. She faces **serious health**
10 **hazards, property damage, and loss of safe housing**, while Defendants face nothing more
11 than the obligation to comply with their own governing documents and applicable law. The
12 **Arizona Supreme Court in Owen v. Superior Court, 133 Ariz. 75 (1982)** held that due
13 process requires courts to prevent deprivation of rights without meaningful review. Here,
14 Defendants’ refusal to act shifts all the risk and harm onto Plaintiff, leaving judicial intervention
15 as the only remedy.

16 **D. PUBLIC INTEREST**

17 The public interest demands immediate compliance by Defendants. Protecting statutory
18 homeowner rights, ensuring HOA’s and their third-party agents act in **good faith**, and
19 preventing retaliation against those who assert their rights are fundamental to maintaining trust
20 in judicial and community governance. Arizona courts emphasize that procedural rules must be
21 applied liberally to secure justice (*Gonzalez v. Nguyen*, 243 Ariz. 531 (App. 2018); **Rule 1,**
22 **Ariz. R. Civ. P.**). Allowing Defendants to continue delaying action despite health and safety
23 hazards undermines both public confidence and the rule of law.

24 **E. CONSTITUTIONAL AND WHISTLEBLOWER PROTECTIONS**

25 Defendants’ obstruction and retaliation also infringe upon Plaintiff’s constitutional rights
26 to **due process, equal protection, and access to the courts (U.S. Const. amend. XIV; Ariz.**
27 **Const. art. 2, §§ 4, 5, 11, 13)**. Retaliation for asserting rights is further prohibited by both
28 **federal law (42 U.S.C. § 3617, FHA) and Arizona law (A.R.S. § 23-1501(3)(c)(ii);**

1 *Wagenseller v. Scottsdale Mem'l Hosp.*, 147 Ariz. 370 (1985)). These protections require that
2 Defendants act swiftly and fairly, rather than exploit procedural delays to continue retaliation.

3 **VII. RELIEF REQUESTED**

4
5 **Plaintiff respectfully requests that this Court enter an Emergency Order:**

- 6 **1. Compelling Defendants to acknowledge Plaintiff's August 19, 2025 submission and**
7 **issue a written response within 7 days, identifying reviewers, governing standards, and a**
8 **final timeline;**
- 9 **1. Waiving Plaintiff's obligation to continue submitting architectural forms for**
10 **approval for necessary repairs or replacements where *health, safety, or habitability***
11 ***are at risk*, due to Defendants' egregious actions and repeated violations of:**
 - 12 **a. A.R.S. § 33-1817(B)** (failure to apply architectural standards reasonably and
13 without discrimination);
 - 14 **b. CC&Rs and Resolutions** (failure to acknowledge or act, even before 45 days,
15 shows bad faith and warrants waiving Defendants' authority.);
 - 16 **c. Arizona and federal fair housing laws** (retaliation and discriminatory denial of
17 services); and
 - 18 **d. The duty of good faith and fair dealing under Arizona law;**
- 19 **2. Recognize that Plaintiff has already submitted multiple architectural forms and**
20 **formal follow-ups (Exhibit A) without acknowledgment, the Court should treat**
21 **Plaintiff's request as deemed approved or otherwise waive any further requirement to**
22 **submit duplicative architectural forms, as Defendants' ongoing refusal to act constitutes**
23 **bad faith, obstruction, and discrimination in violation of Arizona law and federal housing**
24 **protections.**
- 25 **3. Enjoining Mr. Shaw and Defendants from further obstruction, retaliation, or**
26 **discriminatory treatment;**

1 within this Court's equitable authority under **Rule 65, Ariz. R. Civ. P.** to craft relief that
2 protects Plaintiff's rights, property, and health until this case has been fully adjudicated.

3 Plaintiff therefore respectfully requests this Court grant **emergency relief**, including
4 waiver of architectural submission requirements, to ensure her constitutional and statutory
5 rights are protected and to prevent further irreparable harm to her and her family.

6
7
8 Respectfully submitted this 5th day of September, 2025.

9 

10
11 Sandra Rodriguez

12 **IX. EXHIBIT**

13 **A – Plaintiff's Follow-Up Emails** (*Architectural Form / Roof Replacement,*
14 *Sept. 2025*)

EXHIBIT A



Sandra Rodriguez <sandra.rodriguez0339@gmail.com>

Follow Up: Architectural Form: Roof Replacement (4375 E. Betsy Lane Gilbert, Arizona 85296) (THIRD ATTEMPT)

2 messages

Sandra Rodriguez <sandra.rodriguez0339@gmail.com>

Tue, Sep 2, 2025 at 8:00 AM

To: Brooke Sortor <Brooke@focushoa.com>, Harman Cadis <harman@focushoa.com>

Cc: Anna Schultz <anna6890@yahoo.com>, Augustus Shaw <ashaw@shawlines.com>

Bcc: Sandra Rodriguez <sandra.rodriguez0339@gmail.com>

Dear Gardens Gilbert Community Association (GGCA), GGCA Board Member Anna Schultz, Focus HOA Management, LLC, Harmin Cadis, Brooke Sortor and legal counsel August H. Shaw IV;

I am formally documenting that, as of September 2, 2025, it has been 14 days since I submitted my Architectural Request Form (August 19, 2025) for roof replacement at 4375 E. Betsy Lane. I have still not received acknowledgment of receipt.

Your refusal to acknowledge my request constitutes violations of the CC&Rs and Articles of Incorporation, as well as **A.R.S. § 33-1817 (Planned Communities Act)**, which requires architectural standards to be applied reasonably, consistently, and without discrimination. See *Johnson v. Pointe Cmty. Ass'n, Inc.*, 205 Ariz. 485 (App. 2003).

Further, Mr. Shaw's continued involvement raises serious concerns. By obstructing and ignoring a duly submitted request while directing legal correspondence, he is acting in breach of duties owed as an attorney under the **Arizona Rules of Professional Conduct (ER 3.1, ER 4.4, ER 8.4)**. This conduct amounts to obstruction, bad faith, and discriminatory treatment in violation of Arizona nonprofit corporate law and federal Fair Housing Act protections (**42 U.S.C. § 3604(b)**).

I have also reported active water intrusion and property damage due to a leaking roof during monsoon storms. This constitutes an emergency health and safety matter. Your continued failure to act supports liability for negligence and punitive damages under Arizona's "evil mind" standards.

Notice: *If I do not receive written acknowledgment of my submission by 8:00 a.m. on Wednesday, September 3, 2025, I will:*

- Report Mr. Shaw to the Arizona State Bar for ethical violations and obstruction, and
- File notice with the Arizona Superior Court regarding your continued refusal to comply with governing documents and laws.

If acknowledgment is provided: it must specify:

1. The full name of the individuals responsible for review;
2. A clear timeline for when I can expect a final decision; and
3. The governing standard being applied.

Given the repeated mishandling, obstruction, and discriminatory treatment, I am not subject to further manufactured "requirements" beyond what is set forth in the CC&Rs and Arizona law. Under **A.R.S. § 33-1817(B)**, associations must apply standards reasonably and uniformly. When an association fails in its duty of good faith and fair dealing, homeowners are not bound by additional procedural hurdles (**see Restatement (Second) of Contracts § 205, applied in Arizona**).

Any further retaliation or adverse actions will be included in my pending court proceedings against each of you personally, including liability for Mr. Shaw's obstruction and discriminatory conduct.

A copy of this email will also be mailed to you for the record.

Respectfully,

Sandra Rodriguez

On Tue, Aug 19, 2025, 11:29 AM Sandra Rodriguez <sandra.rodriguez0339@gmail.com> wrote:

To: Architectural Review Committee
Gardens Gilbert Community Association
c/o Focus HOA Management, LLC

Dear Committee Members,

I am the legal owner of **4375 E. Betsy Lane, Gilbert, AZ 85296**, and I am formally submitting my request for approval of a roof replacement project, as required by the *Gardens Gilbert Community Association Declaration of Covenants, Conditions & Restrictions (CC&Rs)*.

1. Legal Requirement for ARC Approval

Pursuant to the CC&Rs, all exterior modifications, including roof replacement, require **written approval from the Architectural Review Committee** prior to commencement. This submission is made in compliance with those provisions. Under **A.R.S. § 33-1817** (Planned Communities Act), the Association is obligated to apply architectural standards **reasonably and uniformly** to all members, and may not act arbitrarily, capriciously, or in a discriminatory manner.

2. Project Scope Clarification

This project is a **full roof replacement (tile re-felt)**. *No changes will be made* to the design or appearance of the roof. The existing concrete tile profile and color scheme will be maintained. All original tiles will be carefully removed, tiles installed only as necessary to maintain consistency, using the closest available match to the existing roof tile.

All underlayment, battens, valley metal, drip edge, flashings, pipe jacks, and ventilation will be replaced with new materials, but the overall roof appearance will remain the same as originally constructed, in compliance with CC&R requirements for architectural uniformity.

3. Supporting Documentation Provided

To assist the Committee's review and avoid delay, I have attached:

- **Completed Architectural Request Form.**
- **Estimated project timeline**, to be completed within 180 days of approval in accordance with ARC requirements.
- **Photographs of current roof condition**, showing faded and discontinued tile to justify approval of a "closest match" replacement.

4. REQUEST FOR TIMELY RESPONSE

The CC&Rs and the Association's published policies require the ARC to review and respond to architectural submissions within 30 to 45 days. Accordingly, I respectfully request a **written decision no later than October 3, 2025 (45 days from August 19, 2025)**. If possible, I ask that the Committee provide its decision sooner, as these repairs are urgently needed to address *ongoing water leaks and active water intrusion caused by a deteriorating roof*.

These repairs are critical to prevent further property damage and to preserve the community's architectural standards. I trust the Committee will apply the standards *reasonably, consistently, and in good faith*, as required by the CC&Rs, the Arizona Planned Communities Act (A.R.S. § 33-1817), and Arizona nonprofit corporate law.

Please confirm receipt of this submission and advise promptly if any additional information is required.

Respectfully,

Sandra Rodriguez

Sandra Rodriguez <sandra.rodriguez0339@gmail.com>

Thu, Sep 4, 2025 at 10:42 AM

Draft To: Brooke Sortor <Brooke@focushoa.com>, Harman Cadis <harman@focushoa.com>

Cc: Anna Schultz <anna6890@yahoo.com>, Augustus Shaw <ashaw@shawlines.com>

Bcc: Sandra Rodriguez <sandra.rodriguez0339@gmail.com>

No response was provided by the Defendants, and their legal counsel, Shaw in this email.

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