

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2024-005940

10/22/2025

HONORABLE DAVID MCDOWELL

CLERK OF THE COURT
T. Williams
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

JUDGE MCDOWELL

**RULING ON SEVERAL MOTIONS FOR RELIEF
ACTION REQUIRED**

Pending before the Court are the following filings:

- Plaintiff's August 26, 2025, *Combined Motion for Contempt, Sanctions and Leave to Amend Complaint to Reassert Discrimination and Retaliation Claims*.
- *Plaintiff's Motion for Reconsideration and Clarification of Both Minute Entries dated August 29, 2025*, filed September 5, 2025.
- *Defendants' Response to Plaintiff's Combined Motion for Contempt, Sanctions, and Leave to Amend Complaint and Cross-Motion for Sanctions* filed September 5, 2025.
- *Plaintiff's Response¹ to Defendants' Response and Cross Motion for Sanctions* filed September 5, 2025.
- *Plaintiff's Motion for Emergency Relief* filed September 5, 2025.

¹ A "response" to a "response" is called a reply. Please see Rule 7.1 Ariz.R.Civ.Proc. The Court will refer to any "response to a response" as a reply.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2024-005940

10/22/2025

- Defendants' *Response to Plaintiff's Motion for Emergency Relief* filed September 10, 2025.
- *Plaintiff's Response¹ to Defendants' Response to Plaintiff (sic) Emergency Motion* filed September 11, 2025.²

The rulings below are organized by relief requested rather than the motion/response in which they were presented because many items requested were not presented in discrete motions.

MOTION FOR CONTEMPT

Ms. Rodriguez seeks a finding of contempt against Gardens Gilbert Community Association, Focus HOA Management LLC, Board Member Anna Schultz, Executives Harmin Cadis and Brooke Sorter and their counsel. Ms. Rodriguez asserts the named individuals violated the January 24, 2025, Stay Order and the August 12, 2025, Mandate.

As an initial matter, Ms. Rodriguez argues the Mandate remanded the issue of billing, fines, and retaliation to the trial court for determination. The Court of Appeals Memorandum decision did **not** address the imposition of fines, fees, or costs by the association, and it expressly **affirmed** the dismissal of the retaliation claim. The only monetary award vacated was the award of attorney fees related to this litigation. Nothing in the decision indicates any prior rulings on the amount of fines imposed or bills issued by defendants to Ms. Rodriguez was the subject of the Appeal or was part of the Court of Appeals decision. Further, and probably more importantly, the Court of Appeals did not make any determination whether the Community Association (or its management company) had the contractual right (arising under the CCRs) or statutory right to charge Ms. Rodriguez attorney fees. The Court of Appeals **only** addressed Judge Coffey's entry of a judgment for attorney fees related to this litigation. The issue of imposition of fines and fees pursuant to contract or statute remains an unresolved issue this Court will address at the appropriate time and in the appropriate manner

Turning to the issue of whether issuance of a bill to Ms. Rodriguez on August 20, 2025, violates the stay order and the Mandate: it does not. Ms. Rodriguez argues in her reply that Defendants' filing of a response also violates the stay. It does not.

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

² The Court notes this reply memorandum was seventeen pages, but Rule 7.1 specifies that reply memorandum are limited to eleven pages. In the future this Court will not read any pages beyond the number of pages authorized by Rule unless prior to the submission the Court grants authority to exceed the page restriction.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2024-005940

10/22/2025

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.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2024-005940

10/22/2025

Judge Coffey's January 2025 Order also precludes the parties from filing any further motions.³ It does not preclude a party from responding to a motion – the language gives the choice to the responding party whether to file a response or seek leave of court before doing so.

The stay order did not preclude the parties from engaging in any of the alleged behavior Ms. Rodriguez contends violated the order. There is no allegation that defendants attempted to enforce any of the orders or collect on the judgment. Without an order prohibiting the behavior, engaging in that behavior cannot give rise to contempt sanctions.

IT IS ORDERED denying Sandra Rodriguez's request for imposition of contempt sanctions.

ALLEGATIONS OF PREDATORY AND RETALIATORY ACTIONS

In Ms. Rodriguez's August 26, 2025, filing she alleges that the August 20, 2025 bill and other actions demonstrate a pattern of retaliation and obstruction. Ms. Rodriguez asks for sanctions and punitive damages.

The Court does not resolve ultimate issues of fact or claims for damages unless presented in a specific fashion at an appropriate time. Ordinarily issues of fact and determinations of damages are presented and resolved at trial. A party may seek to have certain issues determined as a matter of law by filing a motion for summary judgment or a motion to dismiss; the filing before the Court is neither. The Court cannot address these allegations in the manner in which they are presented. The Court will take no action related to these allegations until they are presented in a proper manner at a proper time.

**BREACH OF CC&RS, NON-PROFIT CORPORATIONS ACTION AND
INCORPORATION**

Ms. Rodriguez's August 26, 2025, filing contains several paragraphs alleging violation of various contracts and statutes. This appears to be argument justifying claims made in this matter, or possibly to be made in this matter. Either way, this is not presented in a manner that gives the Court any authority to resolve these issues. Whether a party has breached a contract, or a statute is a factual determination that cannot be made based upon a motion of this type. Ordinarily issues of fact are presented and resolved at trial. A party may seek to have certain issues determined as a matter of law by filing a motion for summary judgment or a motion to dismiss;

³ Ms. Rodriguez's August 26, 2025, *Combined Motion* actually violates the stay order, because she did not seek leave of court before filing the motion.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2024-005940

10/22/2025

the filing before the Court is neither. The Court cannot address these allegations in the manner in which they are presented. The Court will take no action related to these allegations until they are presented in a proper manner at a proper time.

PUNITIVE DAMAGES

Two of Ms. Rodriguez's filings request an award of punitive damages. Ms. Rodriguez's operative complaint does not state a claim for punitive damages. A complaint cannot be amended by referencing a new item of damages in a motion. Ms. Rodriguez will need to seek leave to amend her complaint if she wants to pursue a claim for punitive damages.

Even if the complaint stated a claim for punitive damages. The Court does not resolve damages issues unless presented in a specific fashion. Ordinarily damages are presented and resolved at trial. A party may seek to have certain issues determined as a matter of law by filing a motion for summary judgment or a motion to dismiss. The Court cannot address the claim for damages in the manner in which they are presented. The Court will take no action related to these allegations until they are presented in a proper manner at a proper time.

STAY REQUEST

In the August 26, 2025, *Motion*, Ms. Rodriguez requests the Court affirm the January 2025 Stay order. The purpose of the Stay order was to preserve the status quo while the case was proceeding through the appeal. As of September 5, 2025, the appeal rights related to Judge Coffey and Judge Julian's July 2024 and September 2024 rulings have been exhausted.

The Court of Appeals vacated the judgment for attorney fees. It is unclear what enforcement actions could be pursued if that judgment has been vacated. This Court sees no purpose in continuing a stay order now that the case has been returned to the trial court for resolution of the claims on the merits.

IT IS ORDERED denying the request to continue or renew the stay order.

IT IS ORDERED lifting the stay order and directing the parties to resume discovery/disclosure to ensure this matter is ready for a final trial.

MOTION TO AMEND

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2024-005940

10/22/2025

Ms. Rodriguez requests authority to amend her complaint to assert a claim for discrimination and retaliation. The Court of Appeals indicated those claims were dismissed without prejudice, but the Court of Appeals did not revive those claims – it only affirmed the dismissals were without prejudice.

If Ms. Rodriguez wants to pursue a claim for discrimination and/or retaliation, she must file a motion to amend her complaint which complies with Rule 15, Ariz.R.Civ.Proc.. The Court does not consider her *Combined Motion* to be compliant with Rule 15. To the extent she intended that *Combined Motion* to be a motion to amend, her motion is denied.

MOTION FOR RECONSIDERATION

Ms. Rodriguez requests the Court reconsider its rejection of her responsive filing to the motion to consolidate. The Court did incorrectly state that Ms. Rodriguez had not filed a timely response. She did so and the Court apologizes for the error.

The Court has considered Ms. Rodriguez’s response and objection to consolidation of the two cases.⁴ The issues in both cases are similar and, as the Court of Appeals noted, “... Rodriguez’s operative pleading in the Focus Case ... reasserted all claims from the Gardens/Gilbert Case and added claims ...” Further there is a similarity of defendants and the defendants in the Focus case are agents of the defendant in the Gardens Gilbert case. The factual issues are similar, and the allegations arise from the same conduct.

IT IS ORDERED affirming the consolidation order.

Ms. Rodriguez also requests the Court reconsider its denial of her motion to amend. The Court’s order stated why the motion to amend was denied and the order provided instructions on how to fix the motion.

Rule 15 specifically provides in subpart (a),

4) *Proposed Pleading as an Exhibit*. A party moving for leave to amend a pleading must attach a copy of the proposed amended pleading as an exhibit to the motion. **The exhibit must show the respects in which the proposed pleading**

⁴ The Court notes there appears to be a belief that consolidation of the appeals means the underlying case are automatically consolidated. That is inaccurate. The Court of Appeals consolidated the appeals not the underlying cases. However, the underlying cases are now consolidated, so that misunderstanding is likely no longer important.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2024-005940

10/22/2025

differs from the existing pleading by bracketing or striking through the text to be deleted and underlining the text to be added.

[Emphasis added]. Denoting new text by bracketing and removed text by striking through it is referred to as “red-lining”. The Court should not have used this shorthand because it created confusion. It is not disputed that Ms. Rodriguez’s August 26, 2025, motion to amend does not contain as an exhibit the proposed amended pleading.

The Court of Appeals ruling does not authorize an amendment. Ms. Rodriguez must still seek to amend and the motion to amend must comply with Rule 15, Ariz.R.Civ.Proc.

IT IS ORDERED denying the motion to reconsider the denial of the prior motion to amend. Again, the Court gave direction on how to fix the error.

DEFENDANTS’ CROSS MOTION FOR SANCTIONS

In their *Response* to Plaintiff’s August 26, 2025, *Combined Motion*, Defendant’s request sanctions against Plaintiff. Defendants argue Plaintiff has violated the Court’s Stay order by filing motions during the period of stay, her motions are without merit, and are repetitive of previously denied motions.

The Court is leery of imposing monetary sanctions against an indigent Plaintiff despite the filing of motions with this Court during the stay. A reading of the stay order should have informed Plaintiff what is and is not permitted and the acts she alleges violate the stay order do not, while her motions clearly do violate the order. The Court finds the more appropriate sanction and one which addresses the harm alleged by Defendants is to direct that Defendant does not need to respond to any filing by Plaintiff unless and until directed by the Court.

As indicated above, the Stay is lifted. Either party is permitted to file motions without seeking leave of Court HOWEVER, neither party shall file any motions which duplicate issues previously raised and decided.

IT IS ORDERED Defendants do not need to respond to any of Plaintiff’s motions or other filings until directed to do so by the Court.

MOTION FOR EMERGENCY RELIEF

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2024-005940

10/22/2025

Ms. Rodriguez's September 5, 2025, motion seeks relief pursuant to Ariz.R.Civ.Proc. 65. She asserts she submitted an architectural request form on August 19, 2025, and an acknowledgement was due within fourteen days. However, she also asserts the covenants, conditions, and restrictions for the owner's association provides the association has forty-five days in which to respond to a request. Ms. Rodriguez cites A.R.S. §33-1817 for the position that an acknowledgment of action must be provided within fourteen days – that requirement does not appear in A.R.S. §33-1817. Further A.R.S. §33-1817 applies to “new construction of the main residential structure on a lot or for rebuilds of the main residential structure on a lot”. Ms. Rodriguez has cited no case law which indicates that language applies to roof repairs. Nor has she cited provisions of the governing CC&Rs which require the association to acknowledge a submission within fourteen days.

More importantly, the Court notes the operative complaint in this matter does not allege violations of the architectural review process, nor can any of the alleged allegations be interpreted so broadly enough to incorporate a claim which arose a year after the action was filed.

Plaintiff cannot bring a new cause of action before the Court on a motion pursuant to Ariz.R.Civ.Proc., 65 without amending her complaint to state a claim for preliminary injunction.

IT IS ORDERED denying the September 5, 2025, *Plaintiff's Motion for Emergency Relief* without prejudice.

ACTION REQUIRED

There are no unexpired scheduling orders in this matter and the Court needs to ensure it proceeds in an expeditious manner toward resolution.

IT IS ORDERED no later than **November 12, 2025**, the parties shall submit a joint report and proposed scheduling order in compliance with Rule 16(c).