Clerk of the Superior Court
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SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2024-005940 11/10/2025

HONORABLE DAVID MCDOWELL

CLERK OF THE COURT
A. Patel
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 ADDRESSING SEVERAL MOTIONS AND FILINGS

The Court is in receipt of the following documents:

- *Plaintiff's Separate Rule 16(c) Report and Proposed Scheduling Order (filed pursuant to Rule 16(c)(2)* filed October 27, 2025;
- *Defendants' Rule 16(c) Report* filed October 30, 2025;
- *Defendants' Good Faith Consultation Certificate concerning Joint Report and Scheduling Order* filed October 30, 2025;
- *Plaintiff's Response to Defendants' Rule 16(c) Report and Motion* filed October 31, 2025;
- Plaintiff's November 3, 2025 motion for *Clarification and Supplemental Motion Regarding Rule 26.1 Timing, Scheduling Deadlines, and Motion to Strike or Clarify Defendants' Verified Answer filed December 17, 2024;*
- Plaintiff's November 3, 2025 *Notice of Intent to Apply for Entry of Default.*

The parties are encouraged to read and review the Rules of Civil Procedure. Future filings which do not comply with the rules will be rejected. Of note for the filings identified above are the following failures/ violations.

Rule 16(c) provides, in part,

> … In the Joint Report, the parties are **not** permitted to discuss or criticize the rejection of proposed agreements or to argue that the other party has taken unreasonable positions. Unless ordered by the court, a summary must not exceed 4 pages of text, which length must be split evenly between separate statements of the parties if they do not agree on the summary's contents.

Both Defendants' October 30, 2025, filing and Plaintiff's October 31, 2025, filing contain more than two pages of summary (each party is only entitled to two pages). Additionally, Ms. Rodriguez's October 31, 2025, *Response* contained argument which is prohibited.

Rule 16(c) requires that a proposed scheduling order be attached to the Joint Report. No proposed order was attached to Ms. Rodriguez's October 27, 2025, or October 31, 2025, filings. Where Ms. Rodriguez failed to submit an Order, Defendants submitted an order with three pages of exposition which are neither findings of fact nor orders but appear to be posturing and should not be included in a proposed order.

When the Civil Rules require a good faith consultation, that consultation MUST be in person or by telephone. Correspondence, email, and text message WILL NOT suffice and will not be accepted by this Court.

Both parties are cautioned to avoid hyperbole and exaggerating the facts, the law, or the prior orders in this case. If the Court finds that either party is exaggerating the facts, the law, or prior orders in this case to the extent the statements become misleading, the Court will require the offending party to use direct quotes and attach highlighted pages of the source documents to every filing.

Unless the Court grants authority otherwise (and it has not done so) motions **shall not** exceed the number of pages provided in Rule 7. If a party submits a filing which exceeds the permitted number of pages, only the permitted number of pages will be read, anything in excess of the permitted number of pages will be disregarded.

SCHEDULING ORDER

This case was filed in April 2024 and the order staying further proceedings in this case was not signed until January 2025. Discovery should have been conducted during that period of time, even though no prior scheduling order had been entered. Rule 16(b) requires the parties hold an early meeting at the earlier of (i) 30 days after an answer is filed or (ii) 120 days after filing. Discovery should begin after that early meeting.

Nonetheless, it appears little discovery has occurred, so **IT IS ORDERED** the parties shall abide the following schedule:

This case is assigned to discovery Tier 1 pursuant to Rule 26.2.

1. Initial Disclosure: The parties will exchange initial disclosure statements compliant with Rule 26.1 no later than **December 1, 2025.**

2. Expert witness disclosure: The parties will disclose areas of expert testimony no later than **December 10, 2025.** Plaintiffs shall disclose the identity and the opinions of experts by **December 31, 2025.** Defendants shall disclose the identity and opinions of experts by **January 31, 2026**. The parties shall simultaneously disclose their rebuttal expert opinions by **February 16, 2026.**

3. Lay (non-expert) witness disclosure: The parties will disclose all lay witnesses by **January 9, 2026.**

4. Final supplemental disclosure: Each party shall provide final supplemental disclosure by **March 9, 2026**. This order does not replace the parties' obligation to timely and regularly disclose Rule 26.1 information on an on-going basis and as it becomes available.

No party shall use any lay witness, expert witness, expert opinion, or exhibit at trial not disclosed in a timely manner, except upon order of the court for good cause shown or upon a written or an on-the-record agreement of the parties.

5. Discovery deadlines: Tier 1 cases are permitted 120 days in which to complete fact discovery. The time to complete fact discovery runs from the date of the Early Meeting, but it appears the parties conducted no early meeting so the Court will deem the early meeting to have occurred on October 29, 2025 (fourteen days prior to the deadline for submission of the joint report).

The parties will propound all discovery undertaken pursuant to Rules 33 through 36 by **February 2, 2026**. The parties will complete the depositions of parties by **January 14, 2026,** and will complete the depositions of expert witnesses and lay witnesses by **February 27, 2026**. The parties will complete all discovery, including answering any discovery propounded on February 2, 2026, by **March 4, 2026**. ("Complete discovery" includes conclusion of all depositions and submission of full and final responses to written discovery.)

6. Settlement conference or private mediation: The parties shall participate in a settlement conference using an appointed Judge Pro Tem no later than **April 10, 2026.** To meet this deadline, they must certify this matter as ready for a settlement conference no later than January **1, 2026.**

All attorneys and their clients, all self-represented parties, and any non-attorney representatives who have full and complete authority to settle this case shall personally appear and participate in good faith in this mediation, even if no settlement is expected. However, if a non-attorney representative requests a telephonic appearance and the mediator grants the request prior to the mediation date, a non-attorney representative may appear telephonically.

7. Dispositive motions and trial: The parties shall file all dispositive motions, including Daubert motions, by **April 25, 2026**.

8. Trial setting conference: This Division will not set a trial setting conference until the parties have completed all discovery/disclosure, attended some form of facilitated settlement discussion, and any dispositive motions are addressed. When the parties have completed those things, they can file a Motion to Set and Certificate of Readiness attesting to each of those three items.

9. Firm dates: No stipulation of the parties that alters a filing deadline or a hearing date contained in this scheduling order will be effective without an order of this court approving the stipulation. Dates set forth in this order that govern court filings or hearings are firm dates and may be modified only with this court's consent and for good cause. This court ordinarily will not consider a lack of preparation as good cause.

10. A dismissal date is set for **June 1, 2026.** After that date, this matter will be dismissed without further notice to the parties unless prior to that date they (1) submit a Stipulation and proposed order resolving all issues in this action, or (2) file a Motion to Set and Certificate of Readiness indicating all discovery/disclosure is complete, no dispositive motions are pending, and the parties have attended some form of facilitated settlement discussion.

Defendants requested a Rule 16 scheduling conference, when one is requested, the Court must hold one, therefore,

IT IS ORDERED setting a Rule 16 scheduling conference for **January 5, 2026, at 11:00 a.m.** (allotted time: 30 minutes). The hearing shall be virtual through Court Connect:

Join the meeting now
https://tinyurl.com/jbazmc-cvj05a
Dial in by phone
+1 917-781-4590 United States, New York City
Phone conference ID: 171 232 856#

IT IS ORDERED the parties shall abide by this Scheduling Order and shall endeavor to meet all of the dates contained in this order even though the Rule 16 conference will not occur until January. **In no way shall the parties interpret the January 5, 2026 scheduling conference as an indication that the dates set forth above do not apply to them.**

PLAINTIFF'S OCTOBER 31, 2025, RESPONSE AND MOTION

Much of this filing concerns disputes with Defendants' Rule 16(c) report and contains arguments against the positions taken by Defendants. Rule 16(c) does not permit the parties to argue against the other parties' positions; however, the Court will address a few of the arguments asserted to ensure the record is clear and the parties understand.

Defendants Focus, Sortor, Cadis, and Schultz were properly dismissed without prejudice from this case on all contract-based claims. See the Court of Appeals' August 12, 2025, Memorandum Decision, paragraph 11. But these individuals remain in this case as to any tort claims asserted against them. See the Court of Appeals' August 12, 2025, Memorandum Decision, paragraphs 12 through 17.

The Court of Appeals **did not** state that Judge Coffey's prior rulings were constitutionally defective or that any due process violations occurred. To state or imply otherwise is patently false. The word "constitution" (with any prefix or suffix) does not appear in the Court of Appeals' Memorandum Decision. The words "due process" and "defective" also do not appear in the Memorandum Decision. Judge Coffey was **NOT** removed from this case. All Maricopa County judges routinely rotate between departments. Judge Coffey had been in the civil department for three years (the usual period of rotation) and his reassignment was wholly a result of the rotation schedule. Again, the Court of Appeals **found no** constitutional or due process violations. Any inference otherwise is patently false and misleading.

Neither party submitted a joint report. It is disingenuous to argue that the other party was in violation of the Rule when neither complied and both parties bear responsibility for the failure to comply with the Rules and this Court's direction. Neither party demonstrated that he/she complied

with Rule 7.1 prior to submission of his/her Rule 16(c) memorandum. Neither party demonstrated good faith efforts were made to comply with Rule 7.1.

A party's own filings in this proceeding or in the appellate action are not authoritative. At best a party's filing is a statement of position. It is not evidence, it is not a finding of the court, and it is not binding on the Court, and they should not be cited to the Court as such.

The Court of Appeals did not give an "explicit directive" preserving Ms. Rodriguez's right to amend. The Court of Appeals did state that the dismissal was without prejudice and if Ms. Rodriguez has facts which lead her to believe she can now state a claim under the previously dismissed theories she can file a motion to amend.

A self-represented party is held to the same standards as an attorney and are to be afforded no additional latitude in abiding the rules. *Kelly v NationsBanc Mortg. Corp*, 199 Ariz. 284, 287 (2000).

Ms. Rodriguez asks for eleven items of relief in this filing.

IT IS ORDERED denying her request to Strike Defendants' October 30, 2025 Rule 16(c)Report. A motion to strike is limited to two pages. Neither party complied with the Civil Rules or this Court's directive related to the Rule 16(c) submission and therefore the Court will not impose sanctions against one party when both failed to comply.

IT IS ORDERED denying the request to have the Court join another person as a defendant. Ms. Rodriguez has not met the requirements of Rule 19.

The Court's comment on the continued involvement of Defendants Schultz and Cardis is stated above. The relief requested in Ms. Rodriguez's Request for Relief #3 exceeds the language of the Court of Appeals' Memorandum Decision.

IT IS ORDERED denying the fourth request for relief. Judge Coffey was NOT removed from this case and NO COURT has found he committed any due process violations or committed any judicial misconduct.

IT IS ORDERED denying the request to hold "all counts in abeyance" until Plaintiff amends her complaint. No good cause was stated indicating why discovery and disclosure cannot begin immediately.

The Court has set no deadline by which Ms. Rodriguez must file an amended complaint, however she needs to be aware of the requirements of Rule 15 and the case law interpreting when leave should and should not be freely given.

The Court has previously addressed the deadline for submission of initial disclosure statements.

The Court denies the request to set a trial date until discovery/disclosure is complete and the parties have attended some form of facilitated settlement discussion.

A party is presumed to have a right to a jury trial unless that right has been waived, at this time the Court has insufficient information to address whether Plaintiff has waived that right.

The Court has no first-hand knowledge of ethical violations committed by defense counsel and Plaintiff's filings have not produced sufficient, credible evidence with which the Court obtained first-hand knowledge.

CLARIFICATION AND SUPPLEMENTAL MOTION REGARDING RULE 26.1 TIMING, SCHEDULING DEADLINES, AND MOTION TO STRIKE OR CLARIFY DEFENDANTS' VERIFIED ANSWER

Ms. Rodriguez argues Defendants' answer does not comply with Rules 8, 10, and 11, Ariz.R.Civ.Proc. Therefore, she argues Defendants have failed to plead or defend.

Ms. Rodriguez implies Rule 8(e) and *Cullen v. Auto-Owners Ins. Co.*, 218 Ariz. 417 (App. 2008) require that affirmative defenses include factual basis. Neither Rule 8(e) nor the case cited state that. The *Cullen* case does not address the sufficiency of an answer and does not contain the words "affirmative defense." If Ms. Rodriguez is relying on artificial intelligence to conduct research or write motions, she must confirm that the cases actually say what she contends they say. The information Ms. Rodriguez seeks about the factual basis of the denials and the factual basis of affirmative defenses can be sought during the discovery/disclosure phase of this matter.

Ms. Rodriguez argues the Answer fails to contain a jurisdictional statement. That is incorrect. Paragraph #1 on page two of the December 17, 2024, Answer is a jurisdictional statement.

Ms. Rodriguez argues the Answer includes only general denials. That is incorrect. Beginning on page two, paragraph #1 through page five line 17, the Answer makes specific denials of the allegations of her complaint. She also states the responses "do not clearly correspond to each paragraph of the Complaint". November 1, 2024, *Clarification* page 5, line 7-8. This is incorrect; beginning on page two, paragraph #1 and continuing through page five, line 17, the Answer refers

to the paragraph of the complaint to which it corresponds. For instance, paragraph #5 on page two states, "Defendant denies ¶5 of the Complaint".

The Court has reviewed Defendants' December 17, 2025, Answer. The Court finds nothing improper or lacking about the Answer.

Ms. Rodriguez argues the Answer was not properly verified because only one Defendant signed the verification. Ms. Rodriguez has not stated any Rule or statute that indicates the answer in this case was required to be verified. See Rule 8(h), Ariz.R.Civ.Proc.. Unless a verified answer was required, one is not necessary.

IT IS ORDERED denying Ms. Rodriguez's request to have the December 2024 Answer stricken.

IT IS ORDERED denying the request to have Defendants clarify and/or amend their Answer.

The Court has addressed disclosure above, the Court sees no purpose in addressing whether the December 17, 2024, answer triggered the disclosure obligation because neither party has brought to the Court's attention a discovery dispute under Rule 26(d) related to untimely disclosures.

IT IS ORDERED denying the request to stay this case for any reason cited in the *Clarification.*

The Court did not affirm Plaintiff's right to amend. The Court stated she had the right to file a motion to amend. Whether the amendment is granted is not determined at this time because there is no motion or proposed amended complaint before the Court. The Court will not enter an order affirming the right to amend only the right to file a motion to amend.

The deadlines are set forth above and will NOT be amended or extended absent a showing of good cause and diligence in getting this matter ready for a final hearing. The Court denies Ms. Rodriguez's request to extend the scheduling order to begin after the amended complaint is filed.

Let it be understood that the Court does NOT give either party legal advice, does not give direction on what must be accomplished next, or how to accomplish the procedural and substantive steps needed to get this case prepared. Any requests in the *Clarification* for direction is denied.

NOTICE OF INTENT TO APPLY FOR DEFAULT.

Ms. Rodriguez argues Defendants' answer does not comply with Rules 8, 10, and 11, Ariz.R.Civ.Proc. Therefore, she argues Defendants have failed to plead or defend and she is

entitled to default. Many of the arguments asserted in this *Motion* were previously asserted in the November 1, 2025, *Clarification.*

Ms. Rodriguez cites *Montano v Scottsdale Baptist Hospital*, 119 Ariz. 448 (1978) for the proposition that procedural motions do not constitute responsive pleadings. That phrase does not appear anywhere in that case. Further the words "dismiss", "definite statement", and "sanctions" do not appear in that case. If Ms. Rodriguez is relying on artificial intelligence to write her motions or conduct research, she needs to confirm that the cases actually say what she contends they say.

The Court has reviewed Defendants' Answer. The Court finds nothing improper or lacking about the Answer filed.

IT IS ORDERED denying Ms. Rodriguez's request to have the December 2024 Answer declared invalid or improper and denying any request to seek default.