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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**

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10 SANDRA RODRIGUEZ,  
11 **Plaintiff,**  
12 vs.

**MARICOPA COUNTY  
SUPERIOR COURT**  
Case No.: CV2024-005940  
*Judge David McDowell,*

13 GARDENS GILBERT COMMUNITY  
14 ASSOCIATION, FOCUS HOA  
15 MANAGEMENT, LLC, HARMIN CADIS,  
16 BROOKE SORTOR, ANNA SCHULTZ  
17 **Defendants,**

**MOTION TO AMEND  
CIVIL COMPLAINT,  
EXTEND TIME, TEMPORARILY  
PAUSE DISCOVERY**  
*(Please Expedite)*

18  
19 AUGUSTUS H. SHAW IV  
20 **Defendant's Legal Counsel,**

21  
22 **TO THE HONORABLE JUDGE MCDOWELL:**

23 Plaintiff, self-represented and indigent, respectfully moves this Court for leave to amend  
24 her civil complaint, for a *twenty-one-day deadline* to file the amended pleading, and for a  
25 *temporary pause of discovery, disclosures, and depositions* until the amended complaint is filed  
26 and accepted. This request is made in good faith to ensure the operative complaint reflects *all*  
27 *claims reinstated or preserved without prejudice by the Arizona Court of Appeals*, as well as  
28 post-complaint misconduct. Forcing discovery or trial on an outdated pleading will cause

1 constitutional prejudice, unnecessary expense, procedural confusion, and create another  
2 appealable issue—an outcome Plaintiff is actively trying to avoid.

3 Plaintiff does *not* attach an amended complaint with this motion and instead asks for 21  
4 *days after* leave is granted, and after the Court clarifies the scope of amendment consistent with  
5 the appellate mandate and Arizona law, to prepare and file it.

6  
7 **I. INTRODUCTION**

8 Plaintiff seeks leave to amend so she may:

- 9
- 10 • **incorporate newly discovered evidence** and records that Defendants withheld or  
11 that became available after the March 2024 complaint was filed
  - 12 • **add claims arising from later-disclosed or concealed facts**, including fraud,  
13 retaliation, civil conspiracy, Open Meeting Law violations, Fair Housing Act/ADA  
14 retaliation, and selective enforcement;
  - 15 • **correct procedural inaccuracies caused by Defendants’** misrepresentations to  
16 the Court;
  - 17 • **clarify the ongoing timeline of misconduct** by Gardens Gilbert Community  
18 Association, Focus HOA Management, LLC, and individuals;
  - 19 • **add claims based on misconduct occurring during this litigation**, including  
20 abuse of process, retaliatory enforcement, intimidation, and interference with  
21 Plaintiff’s property and statutory rights.
- 22

23 Rule 15(a)(2) requires leave to amend to be freely given, and Arizona applies a liberal  
24 standard. No prejudice, delay, or bad faith exists. Amendment is necessary to align the pleadings  
25 with the appellate mandate and ensure the case proceeds on the correct claims and a complete  
26 record

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## II. NEED TO AMEND THE COMPLAINT

The Arizona Court of Appeals made clear that Plaintiff is entitled to pursue all claims *preserved without prejudice*. The current complaint, however, does not fully include several such claims, including but not limited to: negligence, gross negligence, intentional torts, breach of contract and duty, discrimination, retaliation, First Amendment violations, abuse of process, and statutory record-access violations under A.R.S. § 33-1805 and related provisions.

### A. COMPLIANCE WITH APPELLATE MANDATE AND JORDAN V. JORDAN

Under *Jordan v. Jordan*, 132 Ariz. 38 (1982), the trial court is bound by the appellate court's mandate and its legal determinations. Although the Court of Appeals did not expressly direct Plaintiff to re-plead her other causes of action, those claims were dismissed *without prejudice*, arise from the *same conduct and occurrences*, and therefore remain fully available for amendment under **Rule 15(a)(2)** and Arizona's liberal notice-pleading standards. Arizona law makes clear that a dismissal without prejudice "*does not bar a second action*" and is not a final adjudication of the claim. See *Camasura v. Camasura*, 238 Ariz. 179 (App. 2015); *Tyman v. Hintz Concrete*, 214 Ariz. 73 (App. 2006) (claims arising from the same transaction may be re-pled and relate back). If Plaintiff is not permitted to amend to include all claims arising from the same occurrences, the case will proceed on an incomplete and inaccurate pleading, undermining fairness, impairing discovery under **Rule 26.1(b)**, and conflicting with the mandate doctrine established in *Jordan*.

### B. RULE 15(a)(2) REQUIRES LIBERAL AMENDANT

Arizona Rule of Civil Procedure 15(a)(2) provides that a party may amend a pleading with the court's leave and that "*the court should freely give leave when justice so requires.*" Arizona appellate courts have repeatedly held that amendment is *mandatory* in the absence of undue delay, bad faith, or prejudice:

- *Carranza v. Madrigal*, 237 Ariz. 512 (App. 2015) – leave to amend must be granted unless there is undue delay, bad faith, prejudice, or futility.
- *MacCollum v. Perkinson*, 185 Ariz. 179 (App. 1996) – amendments should be allowed when new facts or causes of action arise during litigation.

- 1 • *Wells Fargo Credit Corp. v. Smith*, 166 Ariz. 489 (App. 1990) – leave must be  
2 granted unless amendment is “*clearly prejudicial*.”
- 3 • *Ostrovsky v. Golder*, 176 Ariz. 599 (App. 1993) – futility is a narrow exception;  
4 denial is improper unless amendment is hopeless.  
5

6 None of these exceptions apply here. The requested amendment is necessary to bring the  
7 pleadings into conformity with the appellate decision and newly discovered facts.

### 8 **III. REQUEST FOR ADDITIONAL TIME AND CLARIFICATION REGARDING** 9 **REDLINE REQUIREMENTS**

10 Plaintiff is not submitting a proposed amended complaint with this motion and instead  
11 requests *21 days* from the Court’s order to draft and file it. Although Rule 15(a) generally  
12 contemplates attaching a proposed amended pleading, the **Arizona Rules of Civil Procedure** *do*  
13 *not require a redlined or comparison copy* to obtain leave to amend.

14 If the Court prefers a redlined version as a matter of local practice, Plaintiff asks that this  
15 requirement apply *after* leave is granted so she has the full 21 days to prepare both a clean and, if  
16 requested, a redlined version.

17 Given the appellate mandate, the volume of previously concealed records, Plaintiff’s  
18 indigency, and her self-represented status, requiring a fully drafted and redlined amended  
19 complaint at the time of the motion would be unduly burdensome and inconsistent with Rule 15’s  
20 liberal amendment standard. It also conflicts with the Arizona Supreme Court’s substance-over-  
21 form rule in *Shea v. Maricopa County*, CV-22-0187-PR (Ariz. 2023), which holds that technical  
22 defects or formatting issues cannot be used to deny a litigant’s rights when the filing provides  
23 clear notice of the issues. Plaintiff’s filings meet that standard, and under **Shea**, the Court should  
24 focus on substance rather than technical form when granting leave and time to amend.

### 25 **IV. NEED TO PAUSE DISCOVERY UNTIL AFTER AMENDMENT**

26 Discovery cannot proceed in a meaningful, constitutionally sound way until the operative  
27 complaint accurately sets out the claims and theories.  
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## VI. RELATION-BACK UNDER RULE 15(c)

To the extent amendment adds parties or clarifies identities, it satisfies Rule 15(c)'s relation-back requirements. In *Tyman v. Hintz Concrete, Inc.*, 214 Ariz. 73 (App. 2006), the Court held relation back applies when a party was omitted due to a mistake of identity and set out four elements: (1) the claim arises from the same transaction; (2) the added party had notice within the limitations period plus Rule 4(i); (3) the notice avoids prejudice; and (4) the added party knew or should have known it would have been named but for the mistake.

*Camelot Homes v. Genaro's Framing Constr.*, 1 CA-CV 19-0704 likewise held that relation back applies when the new party had notice and the claims arise from the same conduct, emphasizing that procedural technicalities cannot defeat substantive justice.

Here, all amendments arise from the same HOA misconduct; the HOA, board members, and Focus Management have long been on notice; no prejudice exists; and they knew or should have known they were proper parties. Relation-back principles therefore support amendment.

## VII. PRO SE LITIGANTS, PROCEDURAL FAIRNESS, AND SHEA v. MARICOPA COUNTY

Courts have an affirmative duty to ensure fairness for self-represented litigants.

### A. FEDERAL AND ARIZONA PRO SE PROTECTIONS

- *Haines v. Kerner*, 404 U.S. 519 (1972), and *Erickson v. Pardus*, 551 U.S. 89 (2007): *pro se filings must be liberally construed.*
- *Bounds v. Smith*, 430 U.S. 817 (1977): *courts must ensure meaningful access to the courts.*
- *Coppola v. Superior Court*, 211 Ariz. 265 (App. 2005); *Kelly v. NationsBanc*, 199 Ariz. 284 (App. 2000); *Hammoudeh v. Jada*, 222 Ariz. 570 (App. 2009): Arizona courts must provide pro se litigants a fair opportunity to be heard and may not impose technical barriers where no prejudice exists.

### B. RELEVANCE OF SHEA V. MARICOPA COUNTY (CV-22-0187-PR)

1 In *Shea v. Maricopa County* (CV-22-0187-PR, 2023), the Arizona Supreme Court  
2 held that jurisdiction is not defeated by technical defects when a timely filing provides notice,  
3 identifies the decision, and states the issues. The Court emphasized that filings are judged by  
4 substance, not labels, that “special formatting, titling, and citations are not required,” and that  
5 technical errors cannot be used to deny rights where no prejudice exists. Courts must avoid  
6 “harsh results” when a party has substantially complied.

7 This applies here: Plaintiff’s filings clearly identify the HOA’s misconduct and the  
8 issues in dispute. Even if some filings were imperfect, Shea confirms that technicalities cannot  
9 be used to deny a self-represented, indigent litigant substantive rights, including the right to  
10 amend under Rule 15. Under *Shea*, this Court must focus on *substance over form*, avoid harsh  
11 procedural outcomes, and ensure Plaintiff has a fair opportunity to correct and expand her  
12 pleadings before discovery and trial.

### 13 IX. REQUEST FOR RELIEF

14 For all the reasons stated above, Plaintiff respectfully requests that the Court enter an  
15 order:

- 16 1. **Granting leave** for Plaintiff to amend her civil complaint under Rule 15(a)(2);
- 17 2. **Allowing Plaintiff twenty-one (21) days** from the date of the Court’s order to file  
18 her First Amended Complaint (in clean form, and in redlined form only if the Court  
19 so requires by order);
- 20 3. **Temporarily pausing all discovery, disclosures, depositions, and related**  
21 **deadlines** until the amended complaint is filed and accepted by the Court; and
- 22 4. **If amendment is denied or limited, issue a written ruling explaining the**  
23 **reasons so Plaintiff may seek timely appellate or Supreme Court review.**

24 Granting this relief will ensure compliance with the appellate mandate, align the  
25 pleadings with the authorized claims, protect Plaintiff’s due-process and equal-protection  
26 rights, prevent unnecessary litigation burdens on an indigent party, and avoid the creation of  
27 further appealable issues that would delay resolution for all parties.  
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Respectfully submitted this 24th day of November 2025.



Sandra Rodriguez