

1 Sandra Rodriguez
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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**

9
10 SANDRA RODRIGUEZ,

11 **Plaintiff,**

12 vs.

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

17 **Defendants,**

18 AUGUSTUS H. SHAW IV

19 **Defendant's Legal Counsel,**

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

**MOTION TO COMPEL AND
CONTINUED BREACH OF
CONSTITUTIONAL VIOLATIONS**

20
21 **TO THE HONORABLE JUDGE MCDOWELL:**

22 Plaintiff Sandra Rodriguez respectfully submits this Motion to Compel Defendants to
23 provide full and proper disclosures in accordance with Rule 26.1 of the Arizona Rules of Civil
24 Procedure and to request sanctions due to non-compliance, false certification of service, and
25 violations of Plaintiff's 14th Amendment rights.

26 **I. FAILURE TO DISCLOSE EVIDENCE AND WITNESSES IN**
27 **VIOLATION OF RULE 26.1**
28

1 Defendants' disclosures remain incomplete and fail to meet the requirements set forth in
2 **Arizona Rule of Civil Procedure 26.1**, which mandates the disclosure of **witnesses, documents,**
3 **and evidence** relevant to claims and defenses. Specifically, Defendants' disclosures are deficient
4 in the following areas:

5 **1) Factual Basis of Claims and Defenses (Rule 26.1(a)(1)):**

- 6
- 7 • Defendants have failed to disclose key evidence, particularly documents related
8 to the association's maintenance and vendor performance, as well as evidence
9 supporting negligence, gross negligence, intentional torts, and breach of contract
10 and duty.
 - 11 • Claims such as breach of contract, discrimination, retaliation, and First
12 Amendment violations remain valid, have not been dismissed, and should be
13 included in Defendants' disclosures, as affirmed by the Court of Appeals'
14 decision, which dismissed them without prejudice.
 - 15 • *Crawford-El v. Britton*, 523 U.S. 574 (1998), establishes that failure to disclose
16 evidence prevents Plaintiff from preparing and contesting claims, violating due
17 process. Rodriguez's original claims, upheld by the Arizona Appellate Court,
18 should be included in Defendants' disclosures:
 - 19 ○ **Negligence**
 - 20 ○ **Gross Negligence**
 - 21 ○ **Intentional Torts**
 - 22 ○ **Breach of Contract and Duty**
 - 23 ○ **Discrimination**
 - 24 ○ **Retaliation**
 - 25 ○ **First Amendment Violations**
 - 26 ○ **Abuse of Process**
 - 27
 - 28

1 ○ **Statutory Record-Access Violations under A.R.S. § 33-1805**

- 2
- 3 • **By failing to disclose evidence**, Defendants are obstructing Plaintiff's
- 4 constitutional rights, including due process and access to justice. This failure
- 5 violates Rodriguez's 14th Amendment rights, particularly due process and equal
- 6 protection, hindering her right to a fair trial and access to the courts.

7

8 2) **Witnesses (Rule 26.1(a)(3)):**

- 9 • Defendants have failed to identify all relevant witnesses, including **board**
- 10 **members** and other key personnel involved in the HOA's operations. They have
- 11 failed to provide the required **contact information** (address and phone number)
- 12 or a **description** of each witness's expected testimony, which is necessary to
- 13 inform Plaintiff of the role each witness will play.

14

15 3) **Documents and Electronically Stored Information (Rule 26.1(a)(8)):**

- 16 • Defendants have failed to identify or produce critical documents, including:
- 17 ○ Emails and communications between HOA representatives and Plaintiff
- 18 ○ Text messages related to *maintenance requests, safety issues, and*
- 19 *retaliatory actions by the HOA*
- 20 ○ **Financial records**, including invoices, payments, and financial
- 21 correspondence related to maintenance, vendor services, and Plaintiff's
- 22 allegations of negligence.
- 23 • These documents are essential to substantiate Plaintiff's claims and defenses and
- 24 must be produced in compliance with **Rule 26.1(a)(8)**.

25

26 4) **Damages Computation (Rule 26.1(a)(7)):**

- 27 • Defendants have failed to provide a computation of damages or documents
- 28 supporting the damages calculation, nor have they identified witnesses who are
- expected to testify on damages.

1 **III. CONSTITUTIONAL AND EQUITABLE GROUNDS FOR RELIEF**
2 **VIOLATION OF DUE PROCESS AND EQUAL PROTECTION**

3 Plaintiff respectfully argues that this court's and Defendants' refusal to pause discovery
4 while Plaintiff amends her lawsuit to include all valid claims infringes on Plaintiff's 14th
5 Amendment rights to due process and equal protection. The failure to disclose relevant evidence,
6 the improper certification of service, and the denial of Plaintiff's constitutional right to amend her
7 complaint significantly impair Plaintiff's ability to seek redress for all claims, including
8 negligence, gross negligence, intentional torts, breach of contract, discrimination, retaliation, First
9 Amendment violations, and statutory record-access violations under A.R.S. § 33-1805.

10 By refusing to allow an amendment and pausing discovery, in violation of **Arizona Rules**
11 **of Civil Procedure Rule 15** (which mandates that leave to amend must be granted freely when
12 justice requires), Defendants impose an unfair procedural burden, particularly on a Mexican
13 American self-represented indigent litigant. This denial violates the *equitable principle* of
14 ensuring *access to justice*, as courts must allow parties to fully present their claims and defenses,
15 as guaranteed under **Rule 26.1** and **constitutional law**. Plaintiff has provided several *valid*
16 *reasons* to amend her lawsuit, including the discovery of new evidence and the need to assert
17 claims that remain valid but were dismissed without prejudice. Defendants' actions are obstructing
18 Rodriguez's *constitutional rights*, particularly her due process and equal protection rights,
19 effectively denying her the opportunity to prepare and present a complete case. This obstruction
20 undermines her ability to seek redress for the harm she has suffered, in direct violation of her
fundamental right to a fair trial.

21 **A. DEFENDANTS' OBSTRUCTION OF PLAINTIFF'S CONSTITUTIONAL**
22 **RIGHTS:**

23 The **Court of Appeals** affirmed that certain claims could still be revived based on new facts.
24 However, Defendants' refusal to pause discovery, acknowledge all claims, and permit
25 amendments has made it nearly impossible for Plaintiff to assert the facts that could lead to the
26 revival of these claims. Judge Coffey's determination, followed by Judge McDowell's rulings,
27 has obstructed Plaintiff's ability to amend the complaint and litigate these claims effectively,
28 resulting in irreparable harm. Obstructing Plaintiff's ability to amend the complaint deprives her

1 of a meaningful opportunity to seek justice for claims that are vital to her case and protected by
2 the 14th Amendment.

3 **LEGAL PRECEDANT:**

- 4
- 5 • *Boddie v. Connecticut*, 401 U.S. 371 (1971), the **Supreme Court** held that denial of
6 access to the courts violates due process.
 - 7 • *Harris v. Johnson*, 238 Ariz. 140 (2015), emphasized that equity courts must protect
8 fairness, and Defendants' refusal to pause discovery prejudices Plaintiff, blocking full
9 litigation of her claims.
 - 10 • *Truax v. Corrigan*, 257 U.S. 312 (1921), found that *procedural burdens* on certain
11 litigants violate *equal protection*. Here, Plaintiff, as a self-represented litigant, faces a
12 disproportionate burden due to Defendants preventing her from asserting discrimination,
13 retaliation, and other claims that were already approved and **First Amendment**
14 **violations**.
 - 15 • *Dahn v. Dahn*, 207 Ariz. 106 (App. 2004), ruled that denying amendments and pausing
16 discovery violates *due process* by blocking a party's *full presentation* of claims.
 - 17 • *State v. Garcia*, 245 Ariz. 173 (2018), affirmed that procedural barriers should not prevent
18 a party from fully presenting claims. Here, Defendants' refusal to pause discovery or allow
19 amendments undermines Plaintiff's right to a fair trial.
 - 20 • *Bryan v. Riddel*, 178 Ariz. 472 (1994), and *Ginsberg v. Superior Court*, 169 Ariz. 372
21 (App. 1991), found that **failure to disclose evidence** and **denying amendments** creates
22 **procedural unfairness**.
 - 23 • *Rundus v. City of Phoenix*, 241 Ariz. 83 (App. 2016), and *Lopez v. Windsor*, 193 Ariz.
24 370 (App. 1998), ruled that *failure to include all claims* before trial violates a party's *right*
25 *to present their full case*. Defendants' refusal to allow amendment prevents Plaintiff from
26 seeking redress for claims like **First Amendment** violations and statutory violations
27 under A.R.S. § 33-1805.
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IV. REQUEST FOR RELIEF

WHEREFORE, Plaintiff respectfully requests this Court:

Grant Plaintiff's Motion to Amend the Complaint filed on November 26, 2025, to include all valid claims, such as negligence, gross negligence, intentional torts, breach of contract, discrimination, retaliation, First Amendment violations, and statutory record-access violations under A.R.S. § 33-1805. These claims were upheld by the Arizona Court of Appeals and remain active. Including them is crucial for Plaintiff to have a full and fair opportunity to present her case.

1. **Pause discovery to allow Plaintiff sufficient time to amend her complaint** and fully prepare her case without undue procedural burden, especially in light of the Defendants' failure to disclose critical evidence and witnesses, as detailed in this motion.
2. **Order Defendants to comply with Rule 26.1** and provide all complete and proper disclosures, including documents, witness information, and evidence relevant to the claims and defenses at issue, as required by Arizona Rules of Civil Procedure.
3. **Invalidate the improperly served documents**, including the 1. Notice of Change of Firm Address, 2. Request for Production of Documents, 3. First Set of Non Uniform Interrogatories, 4. Request for Admissions to Plaintiff, and 5. Association's Initial Disclosure Statement, due to improper certification of service, and bar Defendants from using any evidence or testimony improperly disclosed or served.
4. **Grant an extension to Plaintiff to respond to the improperly served documents** and to address any deficiencies created by Defendants' failure to comply with discovery and service requirements.
5. **Award sanctions against Defendants for their non-compliance with Arizona Rules of Civil Procedure** and the due process violations caused by their obstruction of Plaintiff's ability to amend her complaint and present a full case.
6. **Approve the inclusion of all claims in Plaintiff's complaint, including the following:**
 - o **Negligence**

- 1 ○ **Gross Negligence**
- 2 ○ **Intentional Torts**
- 3
- 4 ○ **Breach of Contract and Duty**
- 5 ○ **Discrimination**
- 6
- 7 ○ **Retaliation**
- 8 ○ **First Amendment Violations**
- 9
- 10 ○ **Statutory Record-Access Violations under A.R.S. § 33-1805**

11 These claims are essential for a complete picture of the actions of the HOA and its agents,
12 particularly regarding retaliatory actions, unlawful withholding of records, and constitutional
13 violations that were not fully addressed in earlier proceedings. Denying Plaintiff the opportunity
14 to assert these claims would violate her 14th Amendment rights and obstruct her ability to seek
15 justice for the harm she has suffered.

16 Respectfully submitted,

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18 Sandra Rodriguez
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IV. EXHIBITS

1. **Judge Coffey's Minute Entry** (May 23, 2024) (related to dismissal of claims): This document outlines which claims were dismissed for personal liability and which were left intact, particularly regarding negligence, gross negligence, and intentional torts.
2. **Court of Appeals Decision** (August 12, 2025): This ruling clarified that certain claims were dismissed without prejudice, including breach of contract, discrimination, retaliation, and First Amendment violations. These claims should be pursued if new facts supporting them arise, as allowed by the appellate court.
3. **Judge McDowell's Rulings** (Multiple Minute Entries): These rulings confirm which claims were dismissed or preserved and provide guidance on which claims remain in contention. They reinforce the idea that Rodriguez has a continuing right to amend her complaint and include valid claims like discrimination and retaliation, which remain *"without prejudice."*

The above exhibits provide critical context for Rodriguez's motion to compel, supporting her right to continue litigation on claims dismissed without prejudice and to amend her complaint in line with the **Court of Appeals' decision**. As a minority indigent self-represented litigant, Rodriguez is entitled to protections ensuring she can fully assert her claims, as established in *Harris v. Johnson*, 238 Ariz. 140 (2015).

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VIII. CERTIFICATE OF SERVICE

I served copies of this **MOTION TO COMPEL AND CONTINUED BREACH OF CONSTITUTIONAL VIOLATIONS** for on all parties of record via U.S. Mail.

OPPOSING PARTY INFORMATION

DEFENDANTS:

- Gardens Gilbert Community Association
- Focus HOA Management, LLC
- Harmin Cadis
- Brooke Sortor
- Anna Schultz
- **Address:** 4135 E. Power Road, Suite 133, Mesa, Arizona 85212

DEFENDANT'S LEGAL COUNSEL:

- **Name:** Augustus H. Shaw IV
- **Firm:** Shaw & Lines, LLC
- **Address:** 4523 E. Broadway Road, Phoenix, Arizona 85040

Respectfully submitted this 25th day of November 2025..


Sandra Rodriguez