

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2024-005940

05/04/2026

HONORABLE DAVID MCDOWELL

CLERK OF THE COURT  
K. Johanson  
Deputy

SANDRA RODRIGUEZ

SANDRA RODRIGUEZ  
4375 E BETSY LN  
GILBERT AZ 85296

v.

GARDENS GILBERT COMMUNITY  
ASSOCIATION, et al.

AUGUSTUS H SHAW IV

JUDGE MCDOWELL

MINUTE ENTRY

Between March 24, and April 28, 2026 Plaintiff filed several motions and made other submissions. The Court did not request that Defendants respond to the motions and submissions addressed in this ruling because the motions and submissions suffered from procedural defects.

**MOTION FOR PROTECTIVE ORDER**

On March 25, 2026<sup>1</sup>, Ms. Rodriguez filed *Plaintiff's Motion for Protective Order, To Stay Deposition, and Issue Sanctions*.

As the Court has indicated several times previously, Ariz.R.Civ.Proc., Rule 26(d) governs discovery disputes. That rule provides, in part:

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<sup>1</sup> The paper copy received by the Court is stamped March 24, 2025. The copy filed is stamped March 25, 2026. Other than the difference in the file stamp, the documents appear identical (they are also both dated the "25rd" of March.

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2024-005940

05/04/2026

**(d) Expedited Procedure for Resolving Discovery and Disclosure Disputes.**

(1) *When Applicable.* Unless the court decides to permit full briefing, this procedure applies to all disputes between parties to the action that could properly be addressed in motions for protective order under Rule 26(c) or motions to compel discovery or disclosure under Rule 37(a). The filings in a Rule 26(d) proceeding are not motions.

(2) *Joint Statement of Discovery or Disclosure Dispute.* When the parties have a dispute that could properly be addressed under Rule 26(c) or Rule 37(a), they must file with the court a joint statement of discovery or disclosure dispute. The joint statement must not exceed 3 pages of explanatory text, with each party entitled to submit one and one-half pages of that text. The parties must also attach a good faith consultation certificate complying with Rule 7.1(h) and may not attach exhibits. The purposes of the joint statement are to notify the court of the dispute, and to make a record of the discovery or disclosure sought. Briefing on the dispute is permitted only if ordered by the court.

Rule 26(d) expressly states that its procedure applies to motions for protective orders. To address the issues raised in Ms. Rodriguez's March 25, 2026 motion, the parties were required to first have a conference and then file a joint statement of discovery dispute.

The Court cannot interpret this Motion as a joint statement of discovery dispute because it was not submitted by both parties and does not contain a statement of Defendants' position. The length of this filing (8 pages) exceeds that permitted by Rule 26(d). Exhibits are not permitted with a joint statement under Rule 26(d) but Plaintiff included 25 pages of exhibits.

**IT IS ORDERED** striking the *Plaintiff's Motion for Protective Order, To Stay Deposition, and Issue Sanctions* because this Motion is not permitted by the Rules

**RESPONSE TO STATEMENT OF DISCOVERY DISPUTE**

On March 31, 2026 Ms. Rodriguez filed *Plaintiff's Response to Defendant's Rule 26(D)(2) Statement of Discovery Dispute Regarding Plaintiff's Refusal to Attend Deposition.*

Rule 26(d) does not permit parties to file separate discovery dispute statements and it does not permit responsive statements. Further each party's portion of the Rule 26(d) joint statement is limited to one and a half pages. Plaintiff's March 31, 2026 *Response* is three and a half pages of

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2024-005940

05/04/2026

text. The purpose behind Rule 26(d) is to apprise the Court of the issue and when the Court holds a hearing to address it, the parties are then permitted time to more fully argue their positions.

While Plaintiff is self-represented she is “...entitled to no more consideration from the court than a party represented by counsel, and is held to the same standards expected of a lawyer.” *Kelly v NationsBanc Mortg. Corp*, 199 Ariz. 284, 287 (2000). Thus Plaintiff is expected to comply with the Civil Rules. Plaintiff’s *Response* does not comply with the Rules.

**IT IS ORDERED** striking the March 31, 2026 *Plaintiff’s Response to Defendant’s Rule 26(D)(2) Statement of Discovery Dispute Regarding Plaintiff’s Refusal to Attend Deposition* as not permitted under the Rules.

**MOTION TO STRIKE ANSWER**

On April 4, 2026 Ms. Rodriguez filed *Plaintiff’s Motion to Strike or Deny Defendant’s Partially Verified Answer*. In this filing Ms. Rodriguez argues the Answer was filed late, it fails to admit or deny material allegations, it “defers” responses to a separate motion, and asserts conclusory defenses without factual support.

As an initial matter, a motion to strike is limited to two pages. Plaintiff’s motion contains five full pages of text and two partial pages. Further a motion to strike is intended to eliminate from the Court’s record filings which are not permitted by statute or rule. A motion to strike also serves to remove improper, scandalous, or impertinent material from the Court record. Ms. Rodriguez does not identify any improper, scandalous, or impertinent material in the Answer.

Ms. Rodriguez argues the Answer was late. However, the Answer was filed before she filed an Application for default and before a default was entered. Therefore, the answer was timely, even though it was not filed within the period provided within Rule 12.

Ms. Rodriguez argues the Answer improperly references a Motion to Dismiss. While the Answer does reference a motion to dismiss, it also contains a denial of each paragraph which references the motion to dismiss and it contains a denial of each paragraph not admitted. Further, under Rule 12(b) a party is permitted to file a motion to dismiss before an answer and that motion to dismiss serves as a responsive filing until it is decided. The Court does not find Defendants’ answer procedurally defective at this stage of this proceeding.

Ms. Rodriguez argues the answer is only “partial”. As indicated above, a motion to dismiss can be filed in lieu of an answer and it is considered responsive until such time as a decision on that

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2024-005940

05/04/2026

motion has been rendered. While the Answer is labeled as “partial” there are responses to each allegation and the motion to dismiss has not been addressed.

Ms. Rodriguez argues that a party cannot file a motion to dismiss “simultaneously” with an Answer. It is unclear whether she uses the word “simultaneously” to mean on the same day or at the same time. Practically the documents cannot be filed at the same moment in time because the Clerk of Court time stamps each filing upon receipt. In this case the Motion to Dismiss was filed at 1:57:09 PM on March 31, 2026 and the Answer was filed at 3:21:34 PM on March 31, 2026. The Answer was filed after the motion to dismiss and thus the temporal restriction in Rule 12 was met. Ms. Rodriguez cites *Coleman v. City of Mesa* (230 Ariz 352) for the proposition that a party cannot simultaneously seek dismissal and answer. However, that case says nothing of the kind and doesn’t address issues of timing although it does address a motion to dismiss.

Finally. Plaintiff asserts the affirmative defenses are without factual support. However, Plaintiff also cites Rule 8 which states “a party must state in short and plain terms its defenses to each claim asserted against it”. The Courts find that Defendants did so. The development of evidence to support those denials comes through the discovery process.

**IT IS ORDERED** denying the April 4, 2026 *Plaintiff’s Motion to Strike or Deny Defendant’s Partially Verified Answer*.

**MOTION TO STRIKE MOTION TO DISMISS**

For the reasons stated above, the April 3, 2026 *Plaintiff’s Motion to Strike or Deny Defendant’s Partial Motion to Dismiss* is not a proper motion to strike. Some of the arguments asserted in this Motion were also asserted in the *Motion to Strike ... Defendant’s ... Answer* and are addressed above.

The Court will consider this Motion as a partial response to the March 31, 2026 Motion to Dismiss and will address that Motion when it is fully briefed.

**APRIL 15, 2026 MOTION TO COMPEL**

On April 15, 2026, Ms. Rodriguez filed another *Motion to Compel*. She attached an April 15, 2026 *Certificate of Good Faith Consultation*. On April 22, 2026 Defendants filed a *Response to Plaintiff’s Certificate of Good Faith Consultation and Objection Thereto*.

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2024-005940

05/04/2026

The parties dispute what occurred during the March 25, 2026 meet and confer. Regardless of whether the parties discussed the discovery Plaintiff propounded during the March 25, 2026 conference, a Motion to Compel is improper. Rule 26(d) clearly states that if a dispute as to discovery exists, the parties shall file a statement of discovery dispute under Rule 26(d) NOT a motion to compel under Rule 37.

**IT IS ORDERED** rejecting Plaintiff's April 15, 2026 *Motion to Compel* as improper.

**MOTION TO EXPEDITE PROTECTIVE ORDER**

On April 21, 2026 Plaintiff filed a *Motion to Expedite Protective Order Filed on March 25, 2026 and Clarification of Order Dated April 16, 2026*.

The Court appreciates that waiting for a response is often difficult and the Court apologizes for the delay in ruling, but trials, hearings, and other cases often prevent the Court from ruling as quickly as everyone may prefer. The Court will rule on motions as quickly as it can.

For the reasons stated elsewhere in this Motion. **IT IS ORDERED** denying the *Motion to Expedite Protective Order Filed on March 25, 2026 and Clarification of Order Dated April 16, 2026*.

**APRIL 28, 2026 MOTION TO COMPEL**

On April 28, 2026 Plaintiff filed another Motion to Compel. This is at least the fourth motion to compel filed. This motion is comprised of nine pages and 460 pages of exhibits.

While Plaintiff contends she has satisfied the requirements of Rule 26(d), she has not. This filing is not a joint statement. It does not comply with the page restriction under Rule 26(d) and it contains exhibits which are not permitted by Rule 26.

**IT IS ORDERED** rejecting Plaintiff's April 15, 2026 *Motion to Compel* as improper.

**IT IS ORDERED** signing all of these rulings as a formal order of the Court.



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HONORABLE DAVID MCDOWELL  
JUDICIAL OFFICER OF THE SUPERIOR COURT