

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2024-005940

05/27/2026

HONORABLE CHRISTOPHER COURY

CLERK OF THE COURT  
S. Ortega  
Deputy

SANDRA RODRIGUEZ

SANDRA RODRIGUEZ  
4375 E BETSY LN  
GILBERT AZ 85296

v.

GARDENS GILBERT COMMUNITY  
ASSOCIATION, et al.

AUGUSTUS H SHAW IV

JUDGE COURY

**ORDERS:**

**(1) DENYING MOTION TO DECLARE DEFENDANTS AND THEIR COUNSELS (SIC)  
SHAW AND DENTE VEXATIOUS LITIGANTS AND REQUEST FOR SANCTIONS;**

**AND**

**(2) DENYING MOTION FOR TEMPORARY RESTRAINING ORDER;**

**AND**

**(3) DENYING WITHOUT PREJUDICE MOTION FOR INJUNCTION AGAINST  
HARASSMENT;**

**AND**

**(4) GRANTING IN-PART AND DENYING IN-PART DEFENDANTS' PARTIAL  
MOTION TO DISMISS;**

**AND**

**(5) GRANTING IN-PART AND DENYING IN-PART DEFENDANTS' MOTION FOR  
SANCTIONS;**

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**AND**

**(6) DENYING ALL OTHER REQUESTED RELIEF IN THE PENDING FILINGS**

**AND**

**(7) PROHIBITING FUTURE COURT FILINGS WITHOUT LEAVE OF COURT  
ABSENT AN EMERGENCY**

Upon reassignment to this division, numerous filings are pending and awaiting judicial decision. The Court has reviewed and considered the following:

- A. *Defendants' Verified Partial Motion to Dismiss*, filed March 31, 2026;
- B. *Plaintiff's Motion to Strike or Deny Defendant's Partial Motion to Dismiss*, filed April 3, 2026;
- C. *Defendants' Reply in Support of Defendants' Partial Motion to Dismiss Plaintiff's Amended Complaint*, filed May 8, 2026;
- D. *Plaintiffs' Motion to Declare Defendants and Their Legal Counsels (sic) Shaw and Dente Vexatious Litigants and Request for Sanctions*, filed April 23, 2026;
- E. *Plaintiffs' Separate Rule 26(d) Statement (Depositions and Defendants' Discovery Deficiencies)*, filed May 1, 2026;
- F. *Defendants' Response to Plaintiff's Motion to Declare Defendants and Their Legal Counsels Shaw and Dente (sic) Vexatious Litigants and Request for Sanctions*, filed May 4, 2026;
- G. *Plaintiff's Reply to Defendant's (sic) Response to Declaire (sic) Defendants and Their Legal Counsels (sic) Shaw and Dente Vexatious Litigants and Requests for Sanctions*, filed May 6, 2026;
- H. *Plaintiff's Separate Rule 26(d) Statement*, filed May 4, 2026;
- I. *Defendants' Statement Concerning Plaintiff's Rule 26(D)(2) Statement (Depositions and Defendants' Discovery Deficiencies)*, filed May 4, 2026;

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- J. *Plaintiff's Motion to Strike Defendants' Untimely Reply in Support of Partial Motion to Dismiss*, filed May 8, 2026;
- K. *Plaintiff's Response and Objection to Court's Desposition (sic) Order; Notice Continuing Prejudice*, filed May 8, 2026;
- L. *Defendants' Notice of Pending Motions and Hearings*, filed May 21, 2026;
- M. *Plaintiff's Notice of Outstanding Motions and Unresolved Filings*, filed May 21, 2026;
- N. *Defendants' Motion for Sanctions*, filed May 22, 2026;
- O. *Plaintiff's Response to Defendant's Motion for Sanctions against Rodriguez and Request for Dismissal*, filed May 26, 2026;
- P. *Plaintiff's Motion for Temporary Restraining Order and Injunction Against Harassment*, filed May 26, 2026; and
- Q. *Motion to Stay Pending Temporary Restraining Order and Injunction Against Harassment*, filed May 26, 2026.

Oral argument would not be helpful.<sup>1</sup>

In this case, following remand from the Arizona Court of Appeals in August 2025, Plaintiff filed *Amended Civil Complaint #3* on February 13, 2026 (the "*Amended Complaint*"). Plaintiffs' claims in the *Amended Complaint* against Defendants Gardens Gilbert Community Association ("Gardens"), Focus HOA Management ("Focus"), Harmin Cadis ("Cadis"), Brooke Sortor ("Sortor"), and Anna Schultz ("Schultz") are as follows:

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<sup>1</sup> The Court notes that Plaintiff's *Motion for Clarification* concerning physical evidence handling, preservation and record status, filed May 10, 2026 must be decided by Judge McDowell, in accordance with Arizona law.

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Claim	Cause of Action
1	Breach of Contract (vs. Gardens and Focus)
2	Breach of Duty of Good Faith and Fair Dealing (vs. “Contracting Defendants and Individual Participants”)
3	Negligence – property condition (vs. all Defendants)
4	Gross Negligence – property condition (vs. Focus, Cadis, Sortor and Schultz)
5	Intentional Torts and Civil Conspiracy (vs. Focus, Cadis, Sortor and Schultz)
6	Discrimination (vs. Gardens and Focus)
7	Retaliation (vs. all Defendants)
8	Vicarious Liability / Respondeat Superior (vs. Gardens)
9	Negligence – property management duties unrelated to property condition (vs. Schultz, Cadis and Sortor)
10	Gross Negligence - property management duties unrelated to property condition (vs. Schultz, Cadis and Sortor)
11	Intentional Torts (vs. Schultz, Cadis and Sortor)

When reviewing a motion to dismiss for failure to state a claim, allegations in the complaint that are well-pled are taken as admitted. *Aldabbagh v. Arizona Department of Liquor Licenses & Control*, 162 Ariz. 415, 417 (App. 1989). In addition to well-pled facts, the Court is entitled to consider all reasonable interpretations of such facts. *Cullen v. Auto-Owners Ins. Co.*, 218 Ariz. 417, 420 (2008).

Under Arizona law, the Court considers four factors when determining whether or not to issue injunctive relief: (1) a strong likelihood of success on the merits; (2) the possibility of irreparable injury if the relief is not granted; (3) a balance of hardships weighing in the movant’s favor; and (4) public policy favoring the requested relief. *TP Racing, L.L.L.P. v. Simms*, 232 Ariz. 489, 495 307, P.3d 56, 62 (App. 2013).

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A.R.S. § 12-1809(B)(1) and (3) provides as follows:

An injunction against harassment shall not be granted:

1. Unless the party who requests the injunction files a written verified petition for injunction.

\* \* \* \*

3. Against more than one defendant.

**THE COURT FINDS** as follows:

1. Plaintiff has asked the Court to disregard *Defendants' Verified Partial Motion to Dismiss*, filed March 31, 2026 on grounds that the *Partial Motion* was filed too long after the filing of the *Amended Complaint*. Arizona law does not compel this. Had Defendants not timely filed their *Partial Motion* or *Answer* to the *Amended Complaint* in the time required by the applicable Rules of Civil Procedure, Plaintiff had other remedies that could have been sought. This did not occur.
2. Plaintiff also requests that the Court disregard the *Partial Motion* because it was filed after the *Answer* was filed and, therefore, the arguments have been waived. Plaintiff is mistaken. The *Partial Motion* was filed on March 31, 2026 at 1:57 p.m. The *Answer* was filed on March 31, 2026, at 3:21 P.M. Consequently, there is no waiver. The Court will consider the merits of the *Partial Motion*.
3. Plaintiff has asked the Court to strike Defendants' *Reply in Support of Defendants' Partial Motion to Dismiss Plaintiff's Amended Complaint*, filed May 8, 2026. The grounds for this request are that the *Reply* was filed untimely. The Court agrees. The *Reply* has been disregarded.
4. The Court notes that each claim asserted in the *Partial Motion* merits discussion in the following respects:
  - a. Count 1 fails to state a claim against Defendant Focus entirely and against Defendant Gardens partially:

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- i. Because the *Amended Complaint* does not allege that Plaintiff had a contract with Focus, nor did one exist, the breach of contract claim against Defendant Focus will be dismissed.
  - ii. To state a breach of contract claim, there must exist a contract. Consequently, to the extent that Count 1 attempts to assert a contract claim against Defendant Gardens relating to duties broader than the CC&Rs, such claim fails as a matter of law. Count 1 against Gardens, therefore, will be limited to only an alleged breach of specific terms of the CC&Rs.
- b. Count 2 fails to state a claim against Focus Cadis, Sortor and Schultz. None of these Defendants had a contract with Plaintiff. Consequently, the implied duty of good faith and fair dealing never arose as a matter of law.
  - c. Count 3 states a claim for relief related to negligence in dealing with property condition issues (i.e. health and safety risks arising from common-area sanitation and maintenance). This claim is limited to these allegations.
  - d. Count 4 states a claim for relief related to gross negligence involving property condition issues (i.e. health and safety risks arising from common-area sanitation and maintenance). This claim is limited to these allegations. Although Defendants invite the Court to question the merits of this claim, such an evaluation would require consideration of facts, and such consideration is premature in the present posture of this case.
  - e. Count 5 fails to state a claim as a matter of law. No recognized intentional torts or violations of law have been pled or identified. This claim will be dismissed.
  - f. Count 6 fails to state a claim as a matter of law. The *Amended Complaint* fails to plead facts showing that any discrimination occurred

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on the basis of (i.e. because of) a protected characteristic. This claim will be dismissed.

- g. Count 7 fails to state a claim as a matter of law. Arizona does not recognize the tort of retaliation. Moreover, to the extent that the alleged retaliatory actions in question are violations of the CC&Rs, the Economic Loss Doctrine bars such a claim against Gardens. This claim will be dismissed.
- h. Count 8 states a claim for relief against Gardens for claims asserted in Counts 3, 4, 9 and 10 of the agents of Gardens.
- i. Defendants' challenges to Counts 9 and 10 fail:
  - i. The argument that the remand was limited is unpersuasive. The prior dismissal was "without prejudice." The Court now reviews each of the claims *de novo* to measure whether a claim has been stated.
  - ii. The *Amended Complaint* states claims for relief in Counts 9 and 10 based on the alleged actions of Schultz, Cadis and Sortor. Although the Court questions whether the claims may be overbreadth as some alleged duties may not exist under Arizona law, that issue can be addressed at a later time.
- j. Count 11 fails to state a claim as a matter of law. No recognized intentional torts or violations of law have been sufficiently pled. This claim will be dismissed.

- 5. Plaintiff's vexatious litigant motion asks the Court to do something unsupported by the record. The record does not support a finding that any Defendant is a vexatious litigant. Nor is designating an attorney for a party as a "vexatious litigant" warranted by the facts of the case or under Arizona law. The present motion amounts to a re-hash of prior discovery disputes. Plaintiff's present filing is perilously close to being sanctionable pursuant to Rule 11, *Arizona*

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*Rules of Civil Procedure.* The Court adopts and incorporates, by reference, the authorities and arguments contained within *Defendants' Response to Plaintiff's Motion to Declare Defendants and Their Legal Counsels (sic) Shaw and Dente Vexatious Litigants and Request for Sanctions*, filed May 4, 2026.

6. Plaintiff has failed to identify the nature of the documents that Plaintiff believes have not been disclosed. Plaintiff's assertion that her deposition is "improper" is unsupported by the record. Adequate methods of redress exist under the law for the Court to respond in a just and equitable way should it become evident that Defendants have failed to comply with their disclosure obligations. Such remedies – including striking the Answers of each and every Defendant – can be imposed should Plaintiff establish prejudice from a Defendant's non-disclosure. Aside from this caution, no such showing has been made at this time warranting the imposition of any sanction or relief from the Court.
7. Plaintiff's request for an Injunction Against Harassment fails for at least three reasons before the merits are even considered:
  - a. In Maricopa County, injunctions against harassment are handled in separate proceedings. They are not handled in the context of existing civil cases because they are specialized proceedings that are tracked separately.
  - b. Plaintiff has failed to comply with A.R.S. § 12-1809(B)(1). The request for an injunction against harassment was not filed in a stand-alone written, verified petition.
  - c. Plaintiff has failed to comply with A.R.S. § 12-1809(B)(3). The request for an injunction against harassment must be filed against each individual separately.
8. Plaintiff's request for injunctive relief – which essentially amounts to a stay of proceedings – does not sufficiently carry the requisite burden. Plaintiff has failed to demonstrate that she has a strong likelihood of success on the merits of proving her procedural violations. Plaintiff has failed to establish the

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possibility of irreparable injury if the relief is not granted. Indeed, as the Court notes *supra.*, the Court can fashion relief should Plaintiff ultimately establish her allegations of procedural improprieties. The balance of hardships does not weigh in the movant's favor; to the contrary, this appears in the context of this case and the pending motions to be a calculated request to avoid being deposed. Finally, public policy does not favor entering the requested relief. This case has been pending since 2024. Judge McDowell noted earlier this year that the discovery has not moved along, and that this case is highly litigious. Stalling this case would not promote public policy or the effective use of limited judicial resources.

9. The request for a stay has been rendered moot by this ruling. However, even if it was not moot, the Court declines to stay this case in the exercise of its discretion.
10. Plaintiff failed to appear for her duly-noticed deposition at 2:00 p.m. on May 21, 2026. Although the deposition was noticed on May 8, 2026, Plaintiff provided notice that she would not appear in an email sent at 6:30 p.m. on May 20, 2026 – the evening before the scheduled deposition. The reasons given by Plaintiff were generic in nature and did not identify an emergent reason why she could not appear. On May 21, 2026, at the time of her deposition, a court reporter was present. In the exercise of the Court's discretion, Plaintiff should be sanctioned because of this behavior. However, the imposition of case-dispositive sanctions, as requested by Defendants, is not warranted at this time. Intermediate sanctions – directing Plaintiff to reimburse Defendants for 75% of the cost of the court reporter fees – is warranted based on Plaintiff's non-appearance and tardy objection.
11. Plaintiff has confirmed that she is available to be deposed on June 10, 2026. This is the deadline for Plaintiff's deposition set by Judge McDowell. The Court will affirm Judge McDowell's prior orders – including the June 10 deadline – relating to Plaintiff's deposition. So long as Defendants provide Plaintiff by June 1, 2026, a Notice of Deposition setting Plaintiff's deposition for June 10, 2026 – the deadline established by Judge McDowell and a date that Plaintiff has confirmed that she is available – Plaintiff's deposition shall

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proceed on that date. Should Plaintiff fail to appear for her June 10, 2026 deposition if noticed by June 1, and in light of the fact that intermediate sanctions have now been imposed, case dispositive sanctions will be considered and may be appropriate.

12. Imposition of other sanctions are not warranted at this time.

13. The docket in this case consists of nearly 300 filings. That is abusive to the judicial system, particularly in light of the posture of this case. The Court will exercise its discretion and limit the parties' ability to file additional motions until discovery concludes.

Good cause appearing,

**IT IS ORDERED** denying Plaintiffs' *Motion to Declare Defendants and Their Legal Counsels (sic) Shaw and Dente Vexatious Litigants and Request for Sanctions*, filed April 23, 2026.

**IT IS FURTHER ORDERED** granting in-part and denying in-part *Plaintiff's Motion to Strike or Deny Defendant's Partial Motion to Dismiss*, filed April 3, 2026. The *Reply* in support of the *Partial Motion to Dismiss* is stricken. The remainder of the *Motion to Strike* is denied.

**IT IS FURTHER ORDERED** granting in-part and denying in-part the *Partial Motion to Dismiss* as set forth above. The only remaining claims in the *Amended Complaint* are set forth in the chart at the end of this ruling.

**IT IS FURTHER ORDERED** granting in-part and denying in-part *Defendants' Motion for Sanctions*, filed May 22, 2026. Plaintiff shall reimburse Defendants in the amount of 75% of the court-reporter fees incurred relating to the May 21, 2026 deposition that Plaintiff did not attend. This intermediate sanction shall be paid to counsel for Defendants on or before June 30, 2026. All other requests for sanctions against Plaintiff are denied without prejudice at this time, including but not limited to case-dispositive sanctions.

**IT IS FURTHER ORDERED** declining to enter any other discovery-based relief or sanctions as requested by either party.

**IT IS FURTHER ORDERED** denying without prejudice *Plaintiff's Motion for Injunction Against Harassment*, filed May 26, 2026. Plaintiff may make such a request by filing a new lawsuit. Such a request shall not be made in this action for the reasons set forth *supra*.

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**IT IS FURTHER ORDERED** denying *Plaintiff's Motion for a Temporary Restraining Order*, filed May 26, 2026.

**IT IS FURTHER ORDERED** denying *Plaintiff's Motion to Stay Pending Temporary Restraining Order and Injunction Against Harassment*, filed May 26, 2026.

**IT IS FURTHER ORDERED** affirming **Judge McDowell's Order setting the deposition completion period to June 10, 2026.**

**LET THE RECORD REFLECT** that, after review of the *Notice of Pending Motions and Hearings*, there remains one case-dispositive motions pending before the Court at this time (*Plaintiff's Motion for Summary Judgment*, filed May 21, 2026 (which is not fully briefed at this time)), and the *Motion for Clarification* (which Judge McDowell must rule upon). These two motions shall be collectively referred to as the "Pending Motions."

**IT IS FURTHER ORDERED** denying any and all outstanding motions, except the Pending Motions, that have not been addressed above.

**IT IS FURTHER ORDERED** imposing the following limitations on further filings:

- I. Both parties are prohibited from filing any new motions, absent an emergency, until the Court rules on *Plaintiff's Motion for Summary Judgment*. This does not prevent the parties from filing new lawsuits (such as a lawsuit for Injunction Against Harassment).
- II. Before any motion is filed in the future, a parties shall file a request for leave to file a motion that shall not exceed 2 pages in length. The request for leave shall identify (a) the specific motion desired to be filed, and (b) why this should be allowed.
- III. The parties may continue to fully brief the *Plaintiff's Motion for Summary Judgment*, but shall not file any new motions, absent an emergency, until this summary judgment motion has been ruled upon.

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**LET THE RECORD REFLECT** that, following this Ruling, only the following claims remain:

<b>Claim</b>	<b>Cause of Action (and status of claim after this ruling)</b>
1	Breach of Contract <i>[vs. Gardens only, and limited to breach of terms of the CC&amp;Rs]</i>
2	Breach of Duty of Good Faith and Fair Dealing <i>[vs. Gardens only]</i>
3	Negligence – property condition (vs. all Defendants) <i>[Limited to negligence involving property condition issues (i.e. health and safety risks arising from common-area sanitation and maintenance)]</i>
4	Gross Negligence – property condition (vs. Focus, Cadis, Sortor and Schultz) <i>[Limited to gross negligence involving property condition issues (i.e. health and safety risks arising from common-area sanitation and maintenance)]</i>
5	Intentional Torts and Civil Conspiracy <i>[DISMISSED]</i>
6	Discrimination (vs. Gardens and Focus) <i>[DISMISSED]</i>
7	Retaliation (vs. all Defendants) <i>[DISMISSED]</i>
8	Vicarious Liability / Respondeat Superior (vs. Gardens)
9	Negligence – property management duties unrelated to property condition (vs. Schultz, Cadis and Sortor)
10	Gross Negligence - property management duties unrelated to property condition (vs. Schultz, Cadis and Sortor)
11	Intentional Torts (vs. Schultz, Cadis and Sortor) <i>[DISMISSED]</i>