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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 an Arizona non profit
15 corporation; FOCUS HOA
16 MANAGEMENT, LLC, and Arizona
17 limited liability company; HARMIN
18 CADIS, BROOKE SORTOR, ANNA
19 SCHULTZ

20 **Defendants,**

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

**PLAINTIFF'S MOTION TO
STRIKE OR DENY DEFENDANT'S
PARTIAL VERIFIED ANSWER**

21 Plaintiff ("*Rodriguez*"), appearing pro per, respectfully moves to strike or deny
22 Defendants' Verified Partial Answer as untimely, procedurally defective, and substantively
23 insufficient under the Arizona Rules of Civil Procedure, controlling Arizona case law, and
24 constitutional due process principles.

25 **I. INTRODUCTION**

26 Defendants' "Verified Partial Answer" is not a valid responsive pleading. It was filed well
27 beyond the Rule 12(a) deadline, fails to admit or deny material allegations as required by Rule
28 8(b), improperly defers responses to a separate motion, and asserts conclusory defenses without
factual support.

1 Rather than respond to the operative Amended Complaint as required, Defendants
2 fragment their obligations across multiple filings while withholding core evidence and attempting
3 to control the factual record. Arizona law prohibits this conduct. A party cannot substitute
4 affidavits or attorney-crafted narratives for actual disclosure, cannot rely on undisclosed evidence,
5 and cannot seek relief based on a record it has unilaterally restricted. *See Zimmerman v. Shakman*,
6 204 Ariz. (App. 2003); *Bryan v. Riddel*, 178 Ariz. 472 (1994); *Allstate Ins. Co. v. O'Toole*, 182
7 Ariz. (1995).

8 **II. THE AMENDED COMPLAINT REQUIRE COMPLETE RESPONSES**

9 Under Rule 15(a), Ariz. R. Civ. P., the Amended Complaint supersedes all prior pleadings
10 and becomes the sole operative pleading. Arizona courts consistently hold that prior pleadings are
11 rendered without legal effect. *See Campbell v. Deddens*, 93 Ariz. 247 (1963); *Owen v. Superior*
12 *Court*, 133 Ariz. (App. 1982).

13 Because the Amended Complaint stands alone, Defendants were required to provide a
14 complete, self-contained response addressing each allegation in accordance with Rule 8(b) and
15 within the time prescribed by Rule 12(a). They did not. Instead, they filed a “*partial answer*,”
16 ignored substantial portions of the Amended Complaint, and attempted to rely on arguments raised
17 in a separate motion.

18 Arizona procedure does not permit fragmented pleading. The rules require a single,
19 complete answer—not multiple filings dividing obligations. Defendants’ failure to fully respond
20 renders their Answer procedurally defective.

21 **III. THE ANSWER IS UNTIMELY AND UNSUPPORTED BY GOOD CAUSE**

22 Rodriguez served the Amended Complaint on February 13, 2026. Under Rule 12(a),
23 Defendants had 20 days to respond. They filed their Verified Partial Answer on March 31, 2026—
24 46 days after service—without seeking or obtaining any extension. This delay lacks good cause
25 and is contradicted by the record. Defendants had actual notice of the Amended Complaint and
26 supporting evidence at the time of service, including receipt of materials reflected in Exhibit 3 of
27 Plaintiff’s April 3, 2026 filing.
28

1 Arizona courts enforce procedural deadlines and may strike untimely pleadings. *Brown v.*
2 Superior Court, 137 Ariz. 327 (1983). Defendants' failure to timely respond supports striking the
3 Answer.

4 **IV. THE "PARTIAL ANSWER" VIOLATES RULE 8(b) AND IS LEGALLY**
5 **INSUFFICIENT**

6
7 Rule 8(b), *Ariz. R. Civ. P.*, requires a defendant to admit or deny each allegation and to
8 state defenses within the answer itself. Defendants do not comply with this requirement. Instead,
9 they repeatedly state that allegations "will be addressed" in a motion to dismiss, rather than
10 providing direct responses.

11 This is procedurally improper. A Rule 12 motion cannot substitute for an answer, and a
12 party may not divide its pleading obligations across multiple filings. See *Coleman v. City of Mesa*,
13 230 Ariz. 352 (2012). A responsive pleading must be complete and self-contained.

14 Defendants' responses are also evasive and incomplete. They fail to meaningfully address
15 core allegations of personal participation, civil conspiracy, retaliation, selective enforcement,
16 statutory violations under A.R.S. § 33-1805, and hazardous conditions following repeated notice.
17 Rather than engage with the detailed factual allegations in the Amended Complaint, Defendants
18 rely on generalized denials and deferral language. Under Rule 8(b)(6), allegations not properly
19 denied are deemed admitted. The Answer's deficiencies therefore have substantive legal
20 consequences.

21 **V. DEFENDANTS ASSERTED DEFENCES ARE CONCLUSORY AND FAIL AS A**
22 **MATTER OF LAW**

23 Defendants assert generalized defenses—including agency, immunity, CC&R-based
24 limitations, and assertions that certain parties are "not proper parties"—without providing factual
25 support. Such boilerplate defenses fail under Rule 8 because they do not provide fair notice or
26 establish any factual basis.

1 The defenses also fail as a matter of law. Arizona law does not permit contractual
2 provisions or CC&Rs to shield defendants from liability for negligence, gross negligence, or
3 intentional torts as the Court of Appeals confirmed in the August 12, 2025 ruling. *See Airfreight*
4 *Express Ltd. v. Evergreen Air Center, Inc.*, 215 Ariz. 103 (App. 2007). Likewise, individuals are
5 not insulated from liability for their own tortious conduct merely because they acted as agents.

6 Defendants' attempt to dismiss Focus HOA Management, LLC, Anna Schultz, Brooke
7 Sortor, and Harman Cadis is particularly improper. The Arizona Court of Appeals reinstated
8 negligence, gross negligence, and intentional tort claims and directed that those claims proceed on
9 a developed factual record. Defendants' renewed attempt to eliminate these parties reasserts
10 defenses barred by the mandate rule and law-of-the-case doctrine. *See Powell-Cerkoney v. TCR-*
11 *Montana Ranch JV*, 176 Ariz. (App. 1993).

12 **VI. DEFENDANTS IMPROPERLY COMBINE AN ANSWER WITH A RULE**
13 **12(b)(6) MOTION**

14 Rule 12(b), Ariz. R. Civ. P., requires that a motion to dismiss be filed before a responsive
15 pleading. Defendants filed their motion simultaneously with—and after—their Answer. This is
16 procedurally improper and undermines the structure of Rule 12.

17 A party cannot both answer and simultaneously seek dismissal under Rule 12(b)(6). *See*
18 *Coleman v. City of Mesa*, 642 Ariz. Adv. Rep. 4, 230 Ariz. (Ariz. 2012). Defendants' approach
19 reflects improper procedural maneuvering and warrants denial of the motion.
20

21 **VII. DEFENDANTS ASSERT DEFENSES WHILE WITHOLDING DISCOVERY**
22 **IN VIOLATION OF RULES AND DUE PROCESS**

23 At the time Defendants filed their Verified Partial Answer—forty-six (46) days after
24 service of the Amended Complaint and twenty-six (26) days beyond the Rule 12(a) deadline—
25 discovery had already been ordered to proceed under this Court's February 23, 2026 Order.
26 Despite being both untimely and procedurally improper under Rule 12(a), Ariz. R. Civ. P.,
27 Defendants also failed to comply with their mandatory disclosure obligations under Rule 26.1.
28

1 Defendants continue to withhold critical evidence within their possession, custody, and
2 control, including internal HOA communications, maintenance and remediation records,
3 enforcement records, and electronically stored information such as emails, text messages, and
4 metadata central to Plaintiff's claims. Instead of producing this evidence, Defendants rely on
5 attorney-prepared affidavits and generalized narratives that reference—but do not disclose—the
6 underlying materials. This conduct constitutes a direct violation of Rule 26.1 and Rule 37, which
7 prohibit incomplete disclosures and bar reliance on undisclosed information.

8 Arizona law is clear that a party may not substitute summaries for actual evidence, rely on
9 undisclosed materials, or benefit from its own nondisclosure. See *Zimmerman v. Shakman*, 204
10 *Ariz.* 231 (App. 2003); *Bryan v. Riddel*, 178 *Ariz.* 472 (1994). Nor may a party create a self-
11 controlled record by withholding evidence and then seek dispositive relief based on that absence.
12 Such conduct undermines the integrity of the judicial process and violates the fundamental purpose
13 of Arizona's disclosure rules—to ensure cases are decided on a complete and transparent
14 evidentiary record, not by ambush or strategic concealment.

15 Defendants' actions also implicate constitutional due process protections under the
16 Fourteenth Amendment to the United States Constitution and Article 2, Section 4 of the Arizona
17 Constitution, as they deprive Plaintiff of a meaningful opportunity to test, verify, and challenge
18 the evidence underlying Defendants' assertions. By withholding core evidence while
19 simultaneously seeking dismissal, Defendants effectively distort the adversarial process, impair
20 Plaintiff's access to the courts, and create an uneven playing field inconsistent with fundamental
21 fairness.

22 This conduct further violates strong public policy embedded in Arizona law favoring full
23 disclosure, transparency in litigation, and resolution of claims on their merits. Allowing
24 Defendants to proceed under these circumstances would reward noncompliance, incentivize
25 discovery abuse, and erode confidence in the judicial process. Accordingly, their conduct warrants
26 denial of their motion, preclusion of undisclosed evidence, and appropriate sanctions..
27
28

1 **VIII. THE “PARTIAL ANSWER” IS NOT RECOGNIZED AND IS PREJUDICIAL**

2 The Arizona Rules of Civil Procedure do not authorize a “partial answer” that selectively
3 responds to allegations or defers responses to other filings.
4

5 Rule 8(b), Ariz. R. Civ. P., requires that:

6 *“a party must state in short and plain terms its defenses to each claim asserted*
7 *against it and admit or deny the allegations asserted against it,”*
8

9 and Rule 8(b)(6) further provides that “an allegation—other than one relating to the amount
10 of damages—is admitted if a responsive pleading is required and the allegation is not denied.”
11 These rules contemplate a single, complete, and self-contained responsive pleading that fully joins
12 the issues.

13 Consistent with this framework, courts reject attempts to fragment pleading obligations.
14 *See Coleman v. City of Mesa*, 230 Ariz. 352, 356 (2012) (Rule 12(b)(6) motions do not replace the
15 requirement to properly plead defenses and responses under Rule 8); *See also Campbell v.*
16 *Deddens*, 93 Ariz. 247, 250 (1963) (operative pleadings must stand on their own once filed). A
17 defendant cannot divide its response across multiple filings to avoid answering the complaint in
18 full.

19 Defendants’ “partial answer” violates these principles. By selectively responding,
20 deferring admissions, and relying on separate filings, Defendants obscure the issues, avoid binding
21 admissions, and delay the orderly progression of the case. This approach prejudices Plaintiff and
22 undermines the purpose of Rule 8—to clearly frame the issues for resolution. Because a responsive
23 pleading must stand on its own and directly address the operative complaint, Defendants’ failure
24 to do so renders their Answer legally ineffective.

25 **IX. REQUEST FOR RELIEF**

26 WHEREFORE, Rodriguez respectfully requests that the Court:
27

- 28 1. Strike Defendants’ Verified Partial Answer as untimely, noncompliant, and legally
 insufficient;

- 1 2. Alternatively, deem all evasive or incomplete responses admitted under Rule
- 2 8(b)(6);
- 3 3. Find waiver of unsupported or improperly pled defenses;
- 4 4. Preclude Defendants from asserting defenses not properly pled or supported;
- 5 5. Deny Defendants' Rule 12(b)(6) motion as procedurally improper;
- 6 6. Order full Rule 26.1 Tier 3 disclosures and compel production of all responsive
- 7 documents and ESI;
- 8 7. Impose sanctions under Rules 37, 26(g), and 11; and
- 9 8. Grant any further relief the Court deems just and proper.
- 10 9. Impose sanctions under Rules 37, 26(g), 11, and the Court's inherent authority.

11 Respectfully submitted this 3rd day of April 2026.

12 

13 Sandra Rodriguez

1 **X. CERTIFICATE OF SERVICE**

2 I served copies of this ***PLAINTIFF'S MOTION TO STRIKE OR DENY DEFENDANT'S***
3 ***PARTIAL VERIFIED ANSWER*** for on all parties of record via U.S. Mail.
4

5 **OPPOSING PARTY INFORMATION**

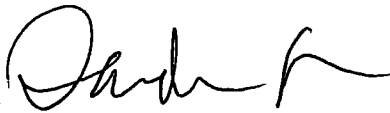
6 **DEFENDANTS:**

- 7 o Gardens Gilbert Community Association
8 o Focus HOA Management, LLC
9 o Harmin Cadis
10 o Brooke Sortor
11 o Anna Schultz
12 • **Address:** 4135 E. Power Road, Suite 133, Mesa, Arizona 85212

13 **DEFENDANT'S LEGAL COUNSEL:**

- 14 • **Name:** Augustus H. Shaw IV
15 • **Firm:** Shaw & Lines, LLC
16 • **Address:** 1490 S. Price Road, Suite 318 Chandler, Arizona 85286

17
18 Respectfully submitted this 3rd day of April 2026.

19 

20
21 Sandra Rodriguez