

1 **Shaw & Lines, LLC**

2 4523 E. Broadway Road

3 Phoenix, AZ 85040

4 Phone (480) 456-1500

5 Facsimile (480) 456-1515

6 www.shawlines.com

7 Mark E. Lines - #020553

8 Augustus H. Shaw, IV - #021593

9 Patrick J. Whelan - #030994

10 *Counsel for Respondents*

11 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**

12 **IN AND FOR THE COUNTY OF MARICOPA**

13 R.L. WHITMER,

14 Petitioner,

15 v.

16 HILTON CASITAS HOMEOWNERS
17 ASSOCIATION, also known as HILTON
18 CASITAS COUNCIL OF
19 HOMEOWNERS, also known as
20 COUNCIL OF CO-OWNERS, also
21 known as HILTON CASITAS COUNCIL
22 OF CO-OWNERS; and MICHAEL
23 BENGSON, solely in his capacity as
24 President of the named Respondent, and
25 not personally,

26 Respondents.

Case No.: CV2016-055080

27 **RESPONSE TO**
28 **PETITIONER'S MOTION FOR AN**
EXTENSION OF TIME TO FILE
THE RESPONSE TO THE
RESPONDENTS' MOTION TO
DISMISS

FOR THE ENFORCEMENT OF
ADMINISTRATIVE LAW ORDER
No. 14F-H1415004-BFS

(Assigned to the Hon. Cynthia Bailey)

21 Respondents, Hilton Casitas Council of Homeowners and Michael Bengson
22 (collectively referred to hereinafter as "**Respondents**"), hereby respond to Petitioner's
23 "Motion For An Extension Of Time To File The Response To The Respondents' Motion
24 to Dismiss" (hereinafter, "**Request**"). Petitioner appears to acknowledge that his response
25 to the Motion to Dismiss was due the very day he filed his Request – December 6, 2018 –
26 yet no response has been filed, nor has any extension been agreed to or granted. The
27 underlying Motion to Dismiss was filed and sent to Petitioner on November 21, 2018.
28

1 As a matter of professional courtesy, undersigned counsel is regularly amendable to
2 a reasonable extension upon request and good cause. However, it should be noted that
3 Petitioner never contacted undersigned counsel to discuss any agreement regarding an
4 extension. Undersigned counsel was only made aware of Petitioner's Request (notably,
5 with "*accelerated consideration requested*") by way of recent email from the Judicial
6 Assistant - Ms. April Johnson. Commonplace would call for counsel to convene and
7 appropriately determine a stipulated timetable in order to promote judicial efficiency for
8 all involved.

9 While Petitioner and undersigned counsel understand that *pro se* litigants are
10 generally not as familiar with civil procedure rules, Petitioner's pleadings and moving
11 papers suggest he is quite familiar with governing procedure. As to the underlying subject
12 matter of the case, Petitioner was well-aware of Respondents' dismissal position by way
13 of the initial status conference with the Court on October 17, 2018. Moreover,
14 undersigned counsel does not believe there is anything complex about the legal issues
15 presented in the Motion to Dismiss.

16 The reason offered in Petitioner's Request for extension is "due to a recent illness
17 and a conflicting work schedule[.]" Any reasonable extension (by agreement or leave of
18 court) should be based on good cause. A conflicting work schedule does not demonstrate
19 good cause. An additional twenty (20) days to respond to a previously -known, -conferred,
20 and -discussed Motion to Dismiss will not result in identifying any legal authority to the
21 contrary.

22 If the Court is inclined to grant leave allowing Petitioner an extension,
23 Respondents oppose the extension as requested until December 26, 2018. Respondents
24 expected to have the Motion to Dismiss fully briefed well before the holidays (rather than
25 having Petitioner's response be due right in the middle of the holidays as requested).
26 Both Respondents and undersigned counsel have planned vacations during that time until
27 or around January 3, 2019.
28

1 If leave is granted extending Petitioner's response time, Respondents respectfully
2 request that the extension be reasonable, *i.e.*, 5 – 7 days from the original deadline or no
3 later than Monday, December 17th, and **not** December 26th as Petitioner requests. That
4 way, the Motion to Dismiss could be fully briefed before the holidays - with
5 Respondents' filing their Reply no later than Friday, December 21, 2018.

6 If the above cannot be accomplished, Respondents respectfully request that their
7 Reply be due on or before January 15, 2019.

8 DATED this 10th day of December, 2018.

9 **SHAW & LINES, LLC**

10
11 /s/ Augustus H. Shaw, IV
12 Augustus H. Shaw, IV
13 Patrick J. Whelan
14 4523 E. Broadway Road
15 Phoenix, Arizona 85040
16 *Counsel for Respondents*

17 ORIGINAL submitted for electronic filing
18 this 10th day of December, 2018, with:

19 Clerk of the Maricopa County Superior Court

20 ORIGINAL electronically-delivered
21 this 10th day of December, 2018, to:

22 Ms. April Johnson
23 *Judicial Assistant to the Hon. Cynthia J. Bailey*
24 ajohnson@superiorcourt.maricopa.gov

25 COURTESY COPY of the foregoing emailed and mailed
26 this 10th day of December, 2018, to:

27 R.L. Whitmer
28 6333 North Scottsdale Road, Casita 21
Scottsdale, Arizona 85250
Petitioner, Pro Per

By: 