

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2024-027320
CV 2024-037185

02/27/2025

HONORABLE SUSANNA C. PINEDA

CLERK OF THE COURT
C. Lacey
Deputy

MARTIN SANCHEZ

ROBERT A ROJAS

v.

ARIZONA BARRIO STORIES, et al.

FRANCISCO X GUTIERREZ

DARRELL L HILL
DOCKET CV TX
JUDGE MOSKOWITZ
JUDGE PINEDA

MINUTE ENTRY

Motion To Strike Answer As To Defendant Gil Bivens

On September 27, 2024, Plaintiff filed his Complaint. Service was completed on Defendant Gil Bivens on October 5, 2024. No other defendant was served. On October 29, 2024, Plaintiff filed his Application and Affidavit for Default as to all named defendants. The Court denied Plaintiff's requests on all but Defendant Gil Bivens because Plaintiff had not shown that service had been completed on the remaining defendants. Plaintiff was advised that Commissioner Albrecht would handle any Rule 55(b) Default Judgment proceedings, and it was ordered "that all documents necessary to support the entry of default must be e-filed/filed." (ME dated 11/4/2024.) Plaintiff did not follow through with default and has not filed any of the documents necessary to do so. Review of the October 29, 2024 Application fails to show that the Application was actually mailed to Defendant Gil Bivens. Instead, the application, signed by counsel, indicates an intent to mail, i.e., "A copy...will be mailed" to Defendants.

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On November 27, 2024, all Defendants filed their answer and counterclaims. They amended their answer and counterclaims on December 6, 2024. Defendants' counterclaims allege that Plaintiff and his counsel (Rojas) engaged in defamatory acts. Plaintiff answered the counterclaims on December 23, 2024. On that same day, he filed his Motion to Strike Defendant Gil Bivens answer as untimely.

Because Plaintiff's certificate of mailing was defective, showing a future mailing of the Application for Default, the 10-day timeline by which Defendant could challenge the default process had not yet commenced. (See Rules 5 and 55 re; service of Application for Default triggering 10-day grace period.) Therefore,

IT IS ORDERED denying Plaintiff's Motion to Strike Answer as to Defendant Gil Bivens.

Motion To Disqualify Plaintiff's Counsel

On January 24, 2025, Defendant's filed their Motion to Disqualify Plaintiff's Counsel (Attorney Robert Rojas). Plaintiff has not responded to the motion. In their motion, Defendants allege, as they did in their counterclaims, that Attorney Rojas, is a witness and/or participant in the actions alleged in their counterclaims. Defendant Gil Bivens has also sued Attorney Rojas in Maricopa County Superior Court cause number CV2024-037185. That suit was filed on December 20, 2024. Service was made on December 28, 2024.¹ Attorney Rojas has answered, denying all allegations against him. Review of Defendants' counterclaims and the allegations made against Attorney Rojas in CV2024-037185 indicate that a clear conflict of interest exists. While Plaintiff Sanchez and counsel Rojas both deny the allegations made against them, Attorney Rojas, is a potential witness in each case. This conflict cannot be overcome. Therefore,

IT IS ORDERED granting Defendant's Motion to Disqualify Plaintiff's Counsel in CV2024-027320.

Given the nature of the crossclaims in CV2024-027320, on the Court's own motion,

IT IS ORDERED consolidating cause numbers CV2024-027320 and CV2024-037185 under cause number **CV2024-027320** for all further proceedings. All future pleadings and correspondence relating to this matter shall be filed under cause number **CV2024-027320**. Both cases will be heard by this division.

¹ . Ironically, the answer was not timely. See rule 12(a)(1)(A)(i) (Answer due within 20 days of service.

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NOTE: COUNSEL SHALL UPLOAD AND E-FILE ALL PROPOSED ORDERS IN WORD FORMAT ONLY TO ALLOW FOR POSSIBLE MODIFICATIONS BY THE COURT.

PLEASE NOTE: If/when a party files a pleading within 48 hours of a scheduled event, the party should also e-mail same to the Court's Judicial Assistant. The email address for the Court's Judicial Assistant, Myrna Mejia, is Myrna.Mejia@jbazmc.maricopa.gov.

IT IS FURTHER ORDERED setting a Status Conference to determine if Plaintiff has retained new counsel and to determine deadlines for the Joint Report and Proposed scheduling order. The Status Conference shall take place on **April 16, 2025 at 9:00 a.m.** (30 minutes allotted) before this Division.

The Court expects the parties to appear **by videoconference** unless permission is otherwise given. Information regarding access to this division's virtual courtroom is listed below.

Enter the following address into your web browser and connect through Microsoft Teams or your browser

www.tinyurl.com/jbazmc-cvj12

Use of the above link can be made easier by downloading the Microsoft Teams application first; for more on the new platform, including an introduction video and participant guide, please visit <https://superiorcourt.maricopa.gov/court-connect/>

If necessary, you may connect to the meeting via telephone:

+1 (917) 781-4590

Microsoft Conference ID: 508 176 593#

Litigants and/or counsel are expected to appear using the TinyURL link, using a web browser or Microsoft Teams, a web camera, and a microphone. Calling in by telephone is meant as a supplemental measure *only to be used if videoconferencing is unavailable*.

NOTE: All court proceedings are recorded digitally and not by a court reporter. Pursuant to Local Rule 2.22, if a party desires a court reporter for any proceeding in which a court reporter is not mandated by Arizona Supreme Court Rule 30, the party must submit a written request to the assigned judicial officer at least ten (10) judicial days in advance of the hearing and must pay the

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authorized fee to the Clerk of the Court at least two (2) judicial days before the proceeding. The fee is \$140 for a half-day and \$280 for a full day.

JPR NOTICE

The Arizona Constitution requires the Arizona Commission on Judicial Performance Review to conduct performance evaluations of superior court judges. The Commission is asking for your help to evaluate Maricopa County Superior Court judges currently undergoing performance review. After your hearing, if the judge you are in front of is undergoing review, a survey will either be given to you by court staff or will be emailed to you and you can take the survey online. The survey is conducted by the Docking Institute of Public Affairs at Fort Hays State University and is anonymous and confidential. Your participation in the review process is important! More information on Judicial Performance Review can be found at azjudges.info.

La Constitución de Arizona exige que la Comisión de la Evaluación del Desempeño Judicial realice evaluaciones de desempeño de los jueces de los tribunales superiores. La comisión pide su ayuda para evaluar a los jueces del Tribunal Superior del Condado de Maricopa a quienes actualmente se les está evaluando su desempeño. Después de su audiencia, si el juez frente a usted está siendo revisado, el personal de la corte le entregará una encuesta o se le enviará por correo electrónico y usted puede realizar la encuesta en línea. La encuesta es realizada por el Docking Institute of Public Affairs de la Fort Hays State University y se mantiene anónima y confidencial. ¡Su participación en el proceso de la evaluación es importante! Para obtener más información sobre la evaluación del desempeño judicial, diríjase a azjudges.info.