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APPENDIX A-1

Court of Appeals Memorandum Decision Reversing Subpoena quash and remanding (2024)

NOTICE: NOT FOR OFFICIAL PUBLICATION.
UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL
AND MAY BE CITED ONLY AS AUTHORIZED BY RULE.

IN THE
ARIZONA COURT OF APPEALS
DIVISION ONE

ROBERT PARSONS, et al., *Plaintiffs/Appellees*,

v.

TOBY HARRIS, *Defendant/Appellant*.

No. 1 CA-CV 24-0324
FILED 12-10-2024

Appeal from the Superior Court in Maricopa County
No. CV2023-002276
The Honorable Katherine Cooper, Judge

AFFIRMED IN PART AND REVERSED IN PART

COUNSEL

Toby Harris, Phoenix
Defendant/Appellant

Holloway Odegard & Kelly, PC, Phoenix
By Sally A. Odegard, Stephen M. Hopkins
Counsel for Plaintiffs/Appellees

PARSONS, et al. v. HARRIS
Decision of the Court

MEMORANDUM DECISION

Judge David D. Weinzweig delivered the decision of the Court, in which Presiding Judge Brian Y. Furuya and Judge James B. Morse Jr. joined.

WEINZWEIG, Judge:

¶1 Toby Harris appeals his designation as a vexatious litigant and the superior court's order granting summary judgement in favor of Robert Parsons and his wife Renee ("Parsons"). We affirm in part and reverse in part, remanding for further proceedings consistent with this decision.

FACTS AND PROCEDURAL BACKGROUND

¶2 Harris sued his former employer, GoDaddy Inc., for wrongful termination in 2010. Mr. Parsons was the executive chairman of GoDaddy at the time. Mr. Parsons left GoDaddy to start Parsons Xtreme Golf ("PXG") during the lawsuit, and Harris created the website boycottpxg.com, which accused Parsons of fraud, theft, bribery and embezzlement.

¶3 Parsons sued Harris for defamation. Harris filed six motions in the ten-month period after he was served with the defamation complaint. None of these motions had merit, so Parsons moved to designate Harris a vexatious litigant, which also happened in Harris's wrongful termination lawsuit against GoDaddy. The superior court granted the motion, so Harris must get court approval for new filings.

¶4 During discovery, Harris subpoenaed PXG for financial records to prove his accusations. PXG moved to quash the subpoena, but missed the deadline by a week and offered no excuse. See Ariz. R. Civ. P. 45(c)(2)(D) (recipient has 14-days after service to file a motion to quash). Even so, the superior court quashed the subpoena.

¶5 Parsons later moved for partial summary judgement, which the superior court granted. Harris timely appealed. We have jurisdiction. A.R.S. § 12-2101(A)(1).

DISCUSSION

¶6 Harris raises three issues on appeal: (1) the superior court abused its discretion by designating him a vexatious litigant, (2) the

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Decision of the Court

superior court abused its discretion by considering the untimely motion to quash, and (3) the superior court erred by granting summary judgment because Parsons failed to prove damages. We address issues one and two but need not reach issue three.

I. Vexatious Litigant Designation.

¶7 Harris first challenges the superior court's designation of him as a vexatious litigant. We accept special action jurisdiction over the vexatious litigant order because there is no other "equally plain, speedy, and adequate remedy by appeal." Ariz. R.P. Spec. Act. 1(a). We review a vexatious litigant designation for abuse of discretion. *Contrems v. Bourke*, ___ Ariz. ___, ___ ¶ 21, 556 P.3d 291, 298 (App. 2024).

¶8 A self-represented litigant may be designated as a vexatious litigant when they (1) unreasonably expand or delay the proceedings, or (2) defend actions without substantial justification. A.R.S. § 12-3201(C), (E)(1)(b)-(c). Before designating a litigant vexatious, the court must (1) give the litigant notice and an opportunity to oppose the order, (2) create an adequate record leading to the order, and (3) make substantive findings of the litigant's frivolous or harassing actions. See *Madison v. Groseth*, 230 Ariz. 8, 14, ¶ 18 (App. 2012). The order must be narrowly tailored to address the litigant's vexatious conduct. *Id.*

¶9 We discern no error. Harris had notice of the motion to designate him a vexatious litigant and he filed a response. The court created an adequate record leading to the order. It pointed to six motions filed by Harris that had no merit, did not further the resolution of the case and expanded the claims without moving it forward. It also cited his prior designation as a vexatious litigant in the wrongful termination lawsuit. And lastly, the order was narrowly tailored because the pre-filing restrictions address Harris's vexatious conduct and are limited to this lawsuit. See *Contrems*, 556 P.3d at 300, ¶ 29. We affirm the court's designation of Harris as a vexatious litigant.

II. Motion to Quash.

¶10 Harris next argues the superior court erroneously granted PXG's motion to quash his subpoena because that motion was filed late. We review for abuse of discretion, but the meaning and effect of court rules are reviewed de novo. *Perguson v. Tamis*, 188 Ariz. 425, 427 (App. 1996). A court abuses its discretion when it misapplies the law. *Blazek v. Superior Court*, 177 Ariz. 535, 537 (App. 1994).

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¶11 Arizona Rule of Civil Procedure 45(e)(2)(D) directs that a motion to quash a subpoena must be filed within 14 days after the subpoena is served. Ariz. R. Civ. P. 45(e)(2)(D). A court may consider an untimely motion only if the moving party shows excusable neglect. Ariz. R. Civ. P. 6(b)(1)(B). A party's neglect is excusable when it "might be the act of a reasonably prudent person under the same circumstances." *City of Phoenix v. Geyler*, 144 Ariz. 323, 331 (1985).

¶12 The superior court abused its discretion. PXG filed its motion to quash 23 days after the subpoena was served and it never moved to extend that deadline. The record indicates that PXG offered no proof or argument to show excusable neglect. We remand for the superior court to entertain a motion to extend the deadline to file a motion to quash.

III. Summary Judgment.

¶13 Given our reversal on an evidentiary issue, we reverse the entry of summary judgment, too. See *Perguson*, 188 Ariz. at 430.

CONCLUSION

¶14 We affirm the superior court's designation of Harris as a vexatious litigant, but reverse and vacate the orders quashing PXG's subpoena and granting summary judgment. We remand to the superior court for further proceedings consistent with this decision.

¶15 Parsons requests an award of attorney fees and costs on appeal under A.R.S. §§ 12-349, -331 and ARCAP 21. We decline that request in our discretion.



AMY M. WOOD • Clerk of the Court
FILED: TM

APPENDIX A-2

Arizona Supreme Court - Order dismissing Petition and mootng all pending motions (2026)

SUPREME COURT OF ARIZONA

ROBERT PARSONS, et al.,) Arizona Supreme Court
) No. CV-25-0279-PR
) Plaintiffs/Appellees,)
) Court of Appeals
) v.) Division One
) No. 1 CA-CV 25-0285
TOBY HARRIS,)
) Maricopa County
) Defendant/Appellant.) Superior Court
) No. CV2023-002276
))
) FILED 01/16/2026

O R D E R

The Court has received Petitioner's *Motion for Ruling and Motion to Withdraw Petition for Review*. This is Petitioner's third motion since he filed his petition for review in October 2025. In his petition for review, Petitioner has challenged proceedings below in which he was designated a vexatious litigant and permanently enjoined from defaming Respondents.

In his motion, Petitioner requests that the Court rule on other pending motions, including his *Motion to Recuse Justice Kathryn King* and *Motion to Vacate Order Striking Reply and Reinstate Reply*. Alternatively, Petitioner asks that the Court "withdraw" the petition for review, thereby mooting all other requests for relief. Petitioner argues that the Court "can take it's [sic] pick" to decide his alternative requests, and he acknowledges that withdrawal of his petition for review will

APPENDIX A-3

Arizona Court of Appeals, Division one Mandate with attached memorandum decision



MATTHEW J. MARTIN
CLERK OF THE COURT

Court of Appeals

STATE OF ARIZONA
DIVISION ONE
STATE COURTS BUILDING
1501 WEST WASHINGTON STREET
PHOENIX, ARIZONA 85007

Phone: (602) 452-6700
Fax: (602) 452-3226

January 22, 2026

Joseph W Malka, Clerk
Maricopa County Superior Court
201 West Jefferson Street
Phoenix, Arizona 85003

Dear Mr. Malka:

RE: 1 CA-CV 25-0285
PARSONS, et al. v. HARRIS
Maricopa County Superior Court
CV2023-002276

The following are attached in the above entitled and numbered cause:

Original MANDATE
Copy of MEMORANDUM DECISION

There are no physical record items to be returned to your Court.

If digital exhibits were submitted through the Arizona digital exhibit portal in this case, access to those exhibits by the Court of Appeals will be removed by the Superior Court pursuant to ARCAP Rule 24(c).

MATTHEW J. MARTIN, CLERK

By bb
Deputy Clerk

A copy of the foregoing
was sent to:
Stephen M Hopkins
Sally A Odegard
Toby Harris
Hon Scott Sebastian Minder

NOTICE: NOT FOR OFFICIAL PUBLICATION.
UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL
AND MAY BE CITED ONLY AS AUTHORIZED BY RULE.

IN THE
ARIZONA COURT OF APPEALS
DIVISION ONE

ROBERT PARSONS, et al., *Plaintiffs/Appellees*,

v.

TOBY HARRIS, *Defendant/Appellant*.

No. 1 CA-CV 25-0285

FILED 10-10-2025

Appeal from the Superior Court in Maricopa County

No. CV2023-002276

The Honorable Scott Sebastian Minder, Judge

AFFIRMED

COUNSEL

Holloway Odegard & Kelly PC, Phoenix
By Sally A. Odegard, Stephen M. Hopkins
Counsel for Plaintiffs/Appellees

Toby Harris, Phoenix
Defendant/Appellant

MEMORANDUM DECISION

Judge Cynthia J. Bailey delivered the decision of the Court, in which Presiding Judge Jennifer M. Perkins and Vice Chief Judge David D. Weinzwieg joined.

PARSONS, et al. v. HARRIS
Decision of the Court

B A I L E Y, Judge:

¶1 Toby Harris ("Harris") appeals superior court orders quashing a subpoena and entering summary judgment for Robert Parsons and his wife, Renee (collectively, "the Parsons"). For the reasons stated below, the superior court correctly granted summary judgment in favor of the Parsons.

FACTS AND PROCEDURAL HISTORY

¶2 GoDaddy terminated Harris from his employment in 2010. At that time, Robert Parsons was an executive at GoDaddy. In a different matter, Harris unsuccessfully sued GoDaddy for wrongful termination and other employment-related claims.

¶3 In 2014, Mr. Parsons left GoDaddy and founded Parsons Xtreme Golf, LLC ("PXG"). Shortly after, Harris created a website called boycottpxg.com, which accused Mr. Parsons of fraud, theft, bribery, and embezzlement.

¶4 The Parsons filed a complaint against Harris for defamation and sought injunctive relief. While the case was proceeding, the Parsons filed a motion to designate Harris as a vexatious litigant. After full briefing on the issue, the superior court issued an order declaring Harris a vexatious litigant.

¶5 During discovery, Harris subpoenaed PXG for documents he contends supported the accusations on the website. PXG moved to quash the subpoena outside the deadline allowed by Arizona Rule of Civil Procedure ("Rule") 45(e)(2)(D). The superior court nevertheless granted the motion to quash.

¶6 Before the superior court quashed the subpoena, the Parsons moved for summary judgment. Harris did not respond to the summary judgment motion or request relief under Rule 56(d) to obtain other evidence. Because the superior court received no response or request for relief, it granted the motion for summary judgment on liability for defamation. After the Parsons withdrew the claim for monetary damages, the court entered a final judgment and found Harris liable for defamation. It permanently enjoined Harris from maintaining the website and making any defamatory comments.

¶7 We remanded Harris' first appeal from this ruling (1 CA-CV 24-0324) to the superior court to determine whether PXG was entitled to an

PARSONS, et al. v. HARRIS
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extension of the deadline to file its motion to quash. The first appeal also reversed and vacated the summary judgment given the remand for reconsideration of the discovery issue.

¶8 On remand, PXG moved to extend the deadline to file its motion to quash the subpoena. Over Harris' objection, the superior court granted PXG's motion and reinstated the prior order quashing the subpoena and granting summary judgment. The Parsons submitted a proposed form of judgment, to which Harris objected. The court entered a final judgment and permanent injunction, implicitly overruling Harris' objections. Harris timely appealed. We have jurisdiction under A.R.S. § 12-2101(A)(1) and (5)(b).

DISCUSSION

¶9 Harris challenges the superior court's order granting PXG an extension to file the motion to quash the subpoena. We need not reach that issue because the Parsons are entitled to summary judgment regardless of how the court ruled on the subpoena. Summary judgment is appropriate if "there is no genuine dispute as to any material fact and the moving party is entitled to judgment as a matter of law." Ariz. R. Civ. P. 56(a). We review the superior court's grant of summary judgment de novo. *Glazer v. State*, 237 Ariz. 160, 167, ¶ 29 (2015).

¶10 In a defamation action between two private parties, the speaker may be liable for publishing a falsehood that injures the plaintiff's reputation. *Rogers v. Mroz*, 252 Ariz. 335, 339, ¶ 12 (2022). If the plaintiff is a public figure or public official, the First Amendment also requires a showing that the statements were made with actual malice. *Id.* at 340, ¶ 17 (citing *N. Y. Times Co. v. Sullivan*, 376 U.S. 254, 279-80 (1964)); see also *Peagler v. Plix. Newspapers, Inc.*, 114 Ariz. 309, 312 (1977).

¶11 The Parsons moved for summary judgment because Harris admitted to publishing statements impeaching Mr. Parsons' reputation and integrity to third parties on his website. The Parsons asserted that Harris made these statements knowing they were false or with reckless disregard for whether they were true. In his deposition, Harris stated that his evidence of truthfulness consisted of the documents attached to his answer. He also claimed that pending discovery requests to the Parsons would support his statements. The superior court implicitly determined that the documents attached to the answer did not relate to the truthfulness of the defamatory statements but instead related to the already-dismissed employment action. Moreover, Harris' deposition testimony does not address the PXG subpoena because he referred to anticipated discovery

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responses from Mr. Parsons. Harris also admitted the statements impeached Mr. Parsons' honesty, integrity, and reputation.

¶12 The superior court granted summary judgment because Harris neither responded to the motion for summary judgment, nor requested relief under Rule 56(d) to obtain other evidence to respond to the motion. The court found the motion and statement of facts provided a factual and legal basis to find Harris liable for defamation and grant a permanent injunction. Later, the Parsons' attorney advised the court they would forgo monetary damages.

¶13 Harris objected to the proposed final judgment. In his objection, Harris argued for the first time that the quashed subpoena would have produced evidence showing a business relationship between Parsons and the superior court judge named in the dismissed employment case. Harris did not elaborate on this point, nor did he press this argument on appeal. Instead, Harris argued, as he does on appeal, that the vexatious litigant order violated his constitutional rights and prevented him from filing unspecified pleadings. The superior court entered the final judgment and permanent injunction over Harris' objection. Harris appealed.

¶14 On remand from the first appeal, the superior court confirmed the summary judgment ruling. Harris again objected and argued summary judgment was improper because the Parsons had not shown damages. Harris took a different position in his reply and raised a new argument—that Mr. Parsons must show malice because he is a public figure. Harris also conceded that monetary damages were not required, and a private figure can show defamation per se. The superior court again quashed the subpoena and re-affirmed the prior entry of summary judgment, implicitly overruling Harris' new public figure argument.

¶15 Harris contends the superior court erred by finding liability per se because the Parsons are public figures and therefore must show actual malice. *See Rogers*, 252 Ariz. at 340, ¶ 17. This argument is untimely. Harris acknowledges that he did not make this argument in the original summary judgment proceedings. In fact, Harris did not respond to the summary judgment motion, nor did he request relief under Rule 56(d) to obtain more evidence to respond to the summary judgment motion. Further, Harris did not raise the public figure argument until the superior court reconsidered the summary judgment motion on remand. Even then, he did not make the argument until the reply supporting his objection.

¶16 Harris states that he intentionally chose not to file anything in superior court because the "mid case [v]exatious order was a trap for a

PARSONS, et al. v. HARRIS
Decision of the Court

contempt charge[.]” Harris misunderstands the vexatious litigant order, which allowed him to file a pleading with the court’s prior permission. Instead, he did nothing. “[I]f a party neglects to take either action, ‘a trial court does not err in proceeding to rule on a motion for summary judgment.’” *Best v. Edwards*, 217 Ariz. 497, 504, ¶ 30 (App. 2008) (quoting *Wells Fargo Credit Corp. v. Smith*, 166 Ariz. 489, 493 (App. 1990)). Thus, Harris waived this argument.

¶17 Waiver aside, Harris did not offer any evidentiary support for his claim that the Parsons are public figures. Unsupported factual allegations are insufficient to defeat summary judgment. Ariz. R. Civ. P. 56(e) (“[A]n opposing party may not rely merely on allegations or denials of its own pleading.”). Harris failed to provide an affidavit or other evidence setting forth “specific facts showing a genuine issue for trial.” *Id.* Harris admittedly published statements that impeached the Parsons’ “honesty, integrity or reputation.” *Peagler*, 114 Ariz. at 316. Therefore, the Parsons are entitled to summary judgment for defamation per se. *Id.*

ATTORNEYS’ FEES AND COSTS ON APPEAL

¶18 The Parsons request an award of attorneys’ fees under A.R.S. § 12-349(A) on the grounds that the appeal lacked substantial justification and unreasonably expanded the proceedings. We decline the Parsons’ request. However, as the prevailing party on appeal, the Parsons are entitled to costs under A.R.S. § 12-342(A).

CONCLUSION

¶19 We affirm the entry of summary judgment on the defamation claim and request for a permanent injunction.



MATTHEW J. MARTIN • Clerk of the Court
FILED: JR

APPENDIX A-4

Arizona Superior Court Final Judgment and permanent injunction (3/13/2025).

1 **Granted as Submitted**

2 ***See eSignature page***

Clerk of the Superior Court
*** Electronically Filed ***
A. Smith, Deputy
3/13/2025 8:00:00 AM
Filing ID 19482023

3 Sally A. Odegard, Esq. (011646) (sodegard@hoklaw.com)
4 Stephen M. Hopkins (010286) (shopkins@hoklaw.com)
5 **HOLLOWAY ODEGARD & KELLY, P.C.**
6 2930 E. Camelback Road, Suite 200
7 Phoenix, Arizona 85016
8 Phone: (602) 240-6670
9 Facsimile: (602) 240-6677 (90.017)

10 Attorneys for Plaintiffs Robert and Renee
11 Parsons

12 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**
13 **IN AND FOR THE COUNTY OF MARICOPA**

14 **ROBERT PARSONS and RENEE**
15 **PARSONS, husband and wife,**

Case No.: CV2023-002276

16 Plaintiffs,

FINAL JUDGMENT AND
PERMANENT INJUNCTION

17 v.

18 **TOBY HARRIS and JANE DOE HARRIS,**
19 **husband and wife; JOHN and JANE DOES**
20 **1 – 10; ABC CORPORATIONS 1 – 10;**
21 **and XYZ PARTNERSHIPS 1 – 10,**

(Assigned to the Honorable
Scott Minder)

22 Defendants.

23 Plaintiffs Robert and Renee Parsons (“Plaintiffs”) filed their Verified Complaint for
24 a Temporary Restraining Order, Preliminary Injunction, and other relief, and has moved for
25 an *ex parte* Temporary Restraining Order, which was granted on or about February 14, 2023.
26 The Court then considered the Complaint, Application for Temporary Restraining Order
27 and Preliminary Injunction, and the accompanying Affidavit and exhibits, and the testimony
28 of the parties at the February 27, 2023, hearing held on the Temporary Restraining Order,
and granted the Temporary Restraining Order. The Court further granted Plaintiffs’ Motion
for Summary Judgment on the issue of liability.

Defendant took an appeal of the Court’s rulings, and the Arizona Court of Appeals
remanded the case to this Court for determination of a discrete issue; whether the Motion to
Quash Subpoena filed by non-party PXG, Inc. should be considered timely. This Court has
now ruled on that issue, and has granted PXG, Inc’s Motion to Extend Deadline to Quash
subpoena.

1 With the Court's ruling again granting summary judgment, the entry of a Permanent
2 Injunction and entry of final Judgment is again appropriate.

3 **IT IS ORDERED** that Defendants, their officers, agents, servants, and employees
4 and all those in active concert or participation with them who receive actual notice of this
5 Order by personal service or otherwise are hereby **RESTRAINED AND ENJOINED** from:

6 1. Making disparaging or defamatory comments in a fixed medium (i.e., website,
7 blog, social media site) about Plaintiffs and/or Plaintiffs' businesses and employees.

8 2. Creating, maintaining, and/or facilitating any website, blog, or social media
9 site containing disparaging or defamatory content about Plaintiffs and/or Plaintiff's
10 businesses and employees.

11 **IT IS FURTHER ORDERED** that Defendants and all persons acting in concert or
12 participation with them are each **RESTRAINED AND ENJOINED** from publishing or
13 republishing on the internet or otherwise the following statements ("Defamatory
14 Statements):

- 15 1. Plaintiffs engage in fraud, in general.
- 16 2. Plaintiffs engage in criminal activity.
- 17 3. Plaintiffs bribe Superior Court judges.
- 18 4. Plaintiffs stole tens of millions of dollars.
- 19 5. Plaintiffs engage in accounting fraud.
- 20 6. Plaintiffs use stolen money to fund their business.
- 21 7. Plaintiffs have or had criminal intent.
- 22 8. Plaintiffs obstruct justice.
- 23 9. Plaintiffs engage in corporate embezzlement.
- 24 10. Plaintiffs will be subject to criminal investigation.
- 25 11. Plaintiffs are going to prison.
- 26 12. Plaintiffs engage in deceitful behavior toward their customers.

27 The Defamatory Statements subject to this Preliminary Injunction include, but are
28 not limited to, the following statements that were published by Defendants:

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- Plaintiffs are “fraudsters.”
- “The Golf community should not support criminal activity by any of its members.”
- “Plaintiffs stole from thousands of employees and got a Judge to assist the scheme.”
- “If [Plaintiffs] paid any monies at all to Ping or Karsten, then that amounts to direct bribery of the judge.”
- “This means also that Parsons is directly paying a judge for a verdict, or bribe.”
- “Parsons and Wirjes used this scheme on the Godaddy employees to steal in tens of millions of dollars ... to pay a portion of the stolen money back to the Judge ...”
- “How did PXG owner billionaire Bob Parsons and his sidekick Tyler Wirtjes steal tens of millions of dollars from publicly traded multi billion dollar company GoDaddy and it’s [sic] employees and get away with it? Accounting fraud that’s how.”
- “Probably because the stolen money in question was being used to make golf clubs and PXG was paying PING in some fashion: licensing, patents, manufacturing, kick backs, etc.”
- “Former Godaddy Executives knowingly robbed their own employees of entitled and “guaranteed” earnings in a publicly traded company then converted the funds for their own use to use to launch Parsons Extreme Golf, PXG.
- “Later the company would IPO and the stock would be converted, which amounted to Parsons and Wirtjes pocketing the illicit gains. So criminal intent is proven.”
- “Or wait until the SEC and FBI to investigate and [Plaintiffs’] personal estates get seized and go to zero.”
- “And Parsons goes to prison for 15 years for public corruption since the Judge is unjustly enriched.”

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- “And it creates a problem for PXG because all they are doing is selling marked up Ping clubs for extortionary pricing and ripping off their customers.”

IT IS FURTHER ORDERED that Defendants shall remove (to the extent not already removed) any posts that contain the Defamatory Statements (and the titles of such posts to the extent they contain the Defamatory Statements) from their websites, blogs, and social media accounts including, but not limited to, the following website/posts:

- <https://boycottpxg.com>

The Court has also considered Plaintiffs’ Verified Statement of Costs, and good cause appearing.

IT IS FURTHER ORDERED granting the Plaintiffs’ their taxable costs in the amount of \$575.99.

IT IS FURTHER ORDERED that interest shall accrue on the above amount at the rate of eight and one-half percent (8.5%) per annum from the date of entry of this Judgment until paid in full.

The Court finds that no further matters remain pending, and this final and appealable Judgment is entered under Rule 54 (c) of the Arizona Rules of Civil Procedure.

DATED this ____ of March, 2025.

Hon. Scott Minder
Maricopa County Superior Court

eSignature Page 1 of 1

Filing ID: 19482023 Case Number: CV2023-002276
Original Filing ID: 19443286

Granted as Submitted



/S/ scott minder Date: 3/12/2025
Judicial Officer of Superior Court

ENDORSEMENT PAGE

CASE NUMBER: CV2023-002276

SIGNATURE DATE: 3/12/2025

E-FILING ID #: 19482023

FILED DATE: 3/13/2025 8:00:00 AM

SALLY A ODEGARD

P X G WORLDWIDE INC
C/O JACQUELINE PAKULA 15475 N 84TH ST
SCOTTSDALE AZ 85260

TOBY HARRIS
13602 N 44TH ST # 149 PHOENIX AZ 85032

APPENDIX A-5

Defendants reply in support of Defendant's reply brief preserving Constitutional free speech issue

1 Toby Harris
13602 N. 44th St. #149
2 Phoenix, AZ 85032
623 387 0659
3 tharris789@aol.com
Toby Harris, In Pro Per
4

5 IN THE SUPERIOR COURT OF ARIZONA
6 IN AND FOR THE COUNTY OF MARICOPA

7 BOB PARSONS AND RENEE PARSONS,

Case No.: CV2023-002276

8 Plaintiff,

9 vs.

REPLY TO PLAINTIFFS REPONSE TO
DEFENDANTS OBJECTION TO FINAL JUDGMENT

10 TOBY HARRIS

11 Defendant

12
13 REPLY ARGUMENT

14
15 Defendant submits reply as part of the order allowing a filing
16 of an objection to final Judgment eliminating filing of motion
17 to leave. The Plaintiff attempts to indicate that the basis to
18 the objection of the final argument is frivolous, it's not, It's
19 actually built into the mandate for this remand, an issue
20 undetermined by the COA because the Summary Judgment was already
21 shut down by non response to a subpeona for document production.
22 So eventually some Court has to rule on the issue. So in the
23 event we have to appeal it back up, might as well get everything
24 on the record.
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OBJECTION REPLY

1 Former Judge Hopkins actually pens the response, and it is solid
2 on the points, it is true there does not need to be a monetary
3 determination for damages. And yes a Court can determine
4 defamatory statements pe se as presumed. For the average private
5 person that is.
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7
8 However there is one caveat that was omitted in the argument, Mr
9 Bob Parsons is defined as an all purpose public figure, Gertz v
10 Robert Welch, Inc. 418 U.S. 323,345 (1972), he is one of the
11 2,781 billionnaires in the world and is on the Forbes list of
12 worlds richest individuals each year, head of major corporations,
13 has achieved fame and notoriety, has his name advertised in golf
14 through PXG national advertisement which he does the voice overs
15 for, a philanthropic donor with his Bob and Renee Parsons
16 foundation, a serial entrepreneur, been engaged in public
17 controversy for killing an elephant, written a book about his
18 life publicly available to everyone, appears on CNBC and various
19 public media.
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22
23 Parsons easily fits the definition of an all purpose public
24 figure: Source: https://en.wikipedia.org/wiki/Public_figure,
25

26 "A public figure is a person who has achieved fame, prominence
27 or notoriety within a society, whether through achievement, luck,
28

OBJECTION REPLY

1 action, or in some cases through no purposeful action of their
2 own.

3 In the context of defamation actions (libel and slander) as well
4 as invasion of privacy, a public figure cannot succeed in a
5 lawsuit on incorrect harmful statements in the United States
6 unless there is proof that the writer or publisher acted with
7 actual malice by knowing the falsity or by reckless disregard
8 for the truth. The legal burden of proof in defamation actions
9 is thus higher in the case of a public figure than in the case
10 of an ordinary person"

11 The Case law requires that a public figure has to prove malice,
12 New York Times Co. v Sullivan 376 U.S. 254 (1964),

13 "The Constitutional guarantees require, we think, a federal rule
14 that prohibits a public official from recovering damages for a
15 defamatory falsehood relating to his official conduct unless he
16 proves that the statement was made with "actual malice"- that is
17 with knowledge that it was false or with reckless disregard of
18 whether it was false or not." - Sullivan, 376 U.S. at 279-80

19 AZ Courts also require a finding of malice for public figures
20 suing for defamation, Dombey v Phoenix Newspapers, Inc. 150 Ariz.
21 476, 724 p.2d 562 (1986) In addition there is a discussion that
22 issues of Constitutional right are non waivable in Dombey, they
23 have to be heard by the Court, but if we go to appeals they can
24 sort through that issue.

25
26 Malice, A.R.S. §12-653.01 (1), requires a higher pleading
27 standard, and requires proof that the defendant knowingly made a
28

OBJECTION REPLY

1 false statement or acted with a reckless disregard for the truth
2 which is different than negligence. The higher pleading standard
3 is designed to protect free speech. In order for a public
4 figure to succeed in a defamation claim, they must prove malice,
5 here the Plaintiffs did not.
6

7
8 Without proof of malice, the Plaintiffs are not entitled to
9 injunctive relief, The final Judgment cannot be entered, The case
10 must be dismissed.
11

12
13 Respectfully submitted,
14

15 /s/ Toby Harris

16 Toby Harris, Pro Per

17 3/11/25
18

19
20 served by Turbo Court to

21 Jackie Pakula

22 Sally Odegard and Stephen Hopkins

23 3/11/25
24
25
26
27
28

OBJECTION REPLY

APPENDIX A-6

U. S. Const., amend. XIV, § 1

Section 1.

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

APPENDIX A-7

Ariz. Const. art. VI, § 14

Section 14. The superior court shall have original jurisdiction of:

1. Cases and proceedings in which exclusive jurisdiction is not vested by law in another court.
2. Cases of equity and at law which involve the title to or possession of real property, or the legality of any tax, impost, assessment, toll or municipal ordinance.
3. Other cases in which the demand or value of property in controversy amounts to one thousand dollars or more, exclusive of interest and costs.
4. Criminal cases amounting to felony, and cases of misdemeanor not otherwise provided for by law.
5. Actions of forcible entry and detainer.
6. Proceedings in insolvency.
7. Actions to prevent or abate nuisance.
8. Matters of probate.
9. Divorce and for annulment of marriage.
10. Naturalization and the issuance of papers therefor.
11. Special cases and proceedings not otherwise provided for, and such other jurisdiction as may be provided by law.

APPENDIX A-8

Ariz. Rev. Stat. § 12-120.21

A. The court of appeals shall have:

1. Appellate jurisdiction in all actions and proceedings originating in or permitted by law to be appealed from the superior court, except criminal actions involving crimes for which a sentence of death has actually been imposed.
2. Jurisdiction to issue writs of certiorari to review the lawfulness of awards of the industrial commission and to enter judgment affirming or setting aside the awards.
3. Jurisdiction to issue injunctions and other writs and orders necessary and proper to the complete exercise of its appellate jurisdiction.
4. Jurisdiction to hear and determine petitions for special actions brought pursuant to the rules of procedure for special actions, without regard to its appellate jurisdiction.

B. A case or appeal of which the court of appeals has jurisdiction in an action or proceeding originating in or permitted by law to be appealed from the superior court in a county shall be brought or filed in the division which contains that county. An application for a writ of certiorari to review the lawfulness of an award of the industrial commission shall be brought in division 1.

APPENDIX-9

Ariz. R. Civ. P. 54

(a) Judgment and Decision Defined. "Judgment" as used in these rules includes a decree and any order from which an appeal lies. A judgment should not include recitals of pleadings, a master's report, or a record of earlier proceedings. For purposes of this rule, a "decision" is a written order, ruling, or minute entry that adjudicates at least one claim or defense.

(b) Judgment on Multiple Claims or Involving Multiple Parties. If an action presents more than one claim for relief--whether as a claim, counterclaim, cross claim, or third-party claim--or if multiple parties are involved, the court may direct entry of a final judgment as to one or more, but fewer than all, claims or parties only if the court expressly determines there is no just reason for delay and recites that the judgment is entered under Rule 54(b). If there is no such express determination and recital, any decision, however designated, that adjudicates fewer than all the claims or the rights and liabilities of fewer than all the parties does not end the action as to any of the claims or parties and may be revised at any time before the entry of a judgment adjudicating all the claims and all the parties' rights and liabilities.

(c) Judgment as to All Claims and Parties. A judgment as to all claims and parties is not final unless the judgment recites that no further matters remain pending and that the judgment is entered under Rule 54(c).

(d) Demand for Judgment; Relief to Be Granted. A default judgment must not differ in kind from, or exceed in amount, what is demanded in the pleadings. Every other final judgment should grant the relief to which each party is entitled, even if the party has not demanded that relief in its pleadings.

(e) Entry of Judgment After Party's Death. Judgment may be entered on a verdict or decision after a party's death on an issue of fact rendered while the party was alive.

(f) Request for Costs.

(1) Time for Filing Request if a Motion for Attorney's Fees Is Filed. If a party seeking costs also seeks an award of attorney's fees, a verified request for an award of taxable costs under A.R.S. § 12-332 must be filed on the same day the party files its motion for attorney's fees under Rule 54(g).

(2) Time for Filing Request if No Motion for Attorney's Fees Is Filed. If a party seeking costs does not seek an award of attorney's fees under Rule 54(g), a verified request for costs must be filed within the time set forth below:

(A) Rule 54(c) Judgments. If a decision adjudicates all claims and liabilities of all of the parties and judgment is to be entered under Rule 54(c), any request for costs must be filed within 20 days after the decision is filed, or by such other date as the court may order.

(B) Decisions Subject to Rule 54(b)--Adjudicating All Claims and Liabilities of Any Party. If a decision adjudicates all claims and liabilities of any party:

(i) If that party or another party moves for entry of judgment under Rule 54(b), or includes Rule 54(b) language in a proposed form of judgment, a prevailing party seeking costs must file a verified request for an award of taxable costs under A.R.S. § 12-332 within 20 days after service of the motion or proposed form of judgment seeking Rule 54(b) treatment, or by such other date as the court may order.

(ii) If the court declines to enter judgment under Rule 54(b), or no party seeks entry of judgment under Rule 54(b), a prevailing party seeking costs must file a verified request for costs no later than 20 days after any decision is filed that adjudicates all remaining claims in the action, or 20 days after the action's dismissal, whichever occurs first.

(C) Decisions Subject to Rule 54(b)--Adjudicating Fewer Than All Claims and Liabilities of a Party. If a decision or judgment adjudicates fewer than all claims and liabilities of a party, a prevailing party seeking costs must file a verified request for costs no later than 20 days after any decision is filed that adjudicates all remaining claims in the action, or 20 days after the action's dismissal, whichever occurs first.

(3) Response and Reply. A party opposing a request for costs must file a response within 5 days after the request is served. Any reply must be filed within 5 days after the response is served

(g) Attorney's Fees.

(1) Generally. A claim for attorney's fees must be made in the pleadings or in a Rule 12 motion filed before the movant's responsive pleading.

(2) Time for Filing Motion--Rule 54(c) Judgments. If a decision adjudicates all claims and liabilities of all of the parties, except a claim for attorney's fees, and judgment is to be entered under Rule 54(c), any motion for attorney's fees must be filed within 20 days after the decision is filed, or by such other date as the court may order.

(3) Time for Filing Motion--Decisions Subject to Rule 54(b).

(A) Adjudicating All Claims and Liabilities of Any Party. If a decision adjudicates all claims and liabilities of any party:

(i) If that party or another party moves for entry of judgment under Rule 54(b), or includes Rule 54(b) language in a proposed form of judgment, a motion for fees must be filed within 20 days after service of the motion or proposed form of judgment seeking Rule 54(b) treatment, or by such other date as the court may order.

(ii) If the court declines to enter judgment under Rule 54(b), or no party seeks entry of judgment under Rule 54(b), a motion for fees must be filed no later than 20 days after any decision is filed that adjudicates all remaining claims in the action, or 20 days after the action's dismissal, whichever occurs first.

(B) Adjudicating Fewer Than All Claims and Liabilities of a Party. If a decision or judgment adjudicates fewer than all claims and liabilities of a party, a motion for fees must be filed no later than 20 days after any decision is filed that adjudicates all remaining claims in the action, or 20 days after the action's dismissal, whichever occurs first.

(3) Motion and Proceedings. Unless a statute or court order provides otherwise, a motion for attorney's fees must be supported by affidavit and is governed by Rule 7.1. The movant's affidavit must disclose the terms of any fee agreement for the services for which the claim is made.

(h) Proposed Forms of Judgment.

(1) Including Costs and Fees in Judgment. Except as otherwise allowed by this rule:

(A) claims for attorney's fees and costs must be resolved before any judgment may be entered under Rule 54(b) or (c); and

(B) any award of attorney's fees or costs must be included in the judgment.

(2) Form of Judgment. When a judgment is required to include fees or costs:

(A) If fees are requested, the form of judgment must either state the specific sum of attorney's fees awarded by the court, or must include a blank in the form of judgment to allow the court to include an amount for any attorney's fees.

(B) If costs are requested, the form of judgment must either state the specific sum of costs awarded by the court, or must include a blank in the form of judgment to allow the court to include an amount for costs.

(C) If the court enters a judgment under Rule 54(b) or (c) without first receiving a motion for judgment or a proposed form of judgment, a prevailing party seeking costs and/or fees must file a motion to alter or amend the judgment within the time required by Rule 59(d).

(i) Scope; Jurisdiction.

(1) Scope. Rules 54(f) and (g) do not apply to claims for taxable costs and attorney's fees that may be awarded as sanctions under a statute or rule, or if the substantive law requires fees to be proved at trial as an element of damages.

(2) Jurisdiction. If a judgment certified under Rule 54(b) adjudicates fewer than all of the claims and liabilities of any party, the court retains jurisdiction:

(A) to award costs with respect to that judgment, if a request for costs is timely filed under Rule 54(f); and

(B) to award attorney's fees with respect to that judgment, if a motion for fees is timely filed under Rule 54(g).

APPENDIX A-10

Ariz. R. Civ. P. 58

(a) Form of Judgment; Objections to Form.

(1) Proposed Forms of Judgment. Proposed forms of judgment must be served on all parties and must comply with Rule 5.1(d) and 54(h).

(2) Objections to Form.

(A) A judgment may not be entered until 5 days after the proposed form of judgment is served, unless:

(i) the opposing party endorses on the judgment its approval of the judgment's form; or

(ii) the court waives or shortens the 5-day notice requirement for good cause; or

(iii) the judgment is against a party in default.

(B) An opposing party not in default may file an objection to the proposed form of judgment within 5 days after it is served. If an objection is made:

(i) the party submitting the proposed form of judgment may reply within 5 days after the objection is served; and

(ii) after that time expires, the court may decide the matter with or without a hearing.

(b) Entering Judgment.

(1) Written Document. Except as provided in Rule 58(b)(2)(B) regarding habeas corpus proceedings, all judgments must be in writing and signed by a judge or a court commissioner duly authorized to do so.

(2) Time and Manner of Entry.

(A) Generally. A judgment is not effective before entry, but a court may direct the entry of a judgment nunc pro tunc in such circumstances and on such notice as justice requires, stating the reasons on the record. A judgment, including a judgment in the form of a minute entry, is entered when the clerk files it.

(B) In Habeas Corpus Proceedings. A judgment in habeas corpus proceedings need not be signed, and is final when set forth in a minute entry that is filed.

(c) Notice of Entry of Judgment.

(1) Manner of Notice.

(A) By the Clerk. Immediately upon the entry of a judgment, or the entry of a minute entry constituting a judgment, the clerk must:

(i) distribute notice, in the form required by Rule 58(c)(2), either electronically, by U.S. mail, or attorney drop box, to every party not in default for failing to appear; and

(ii) make a record of the distribution.

(B) By Any Party. In addition to the clerk's notice under Rule 58(c)(1)(A), any party may serve notice of entry of judgment in the manner provided in Rule 5(c).

(2) Form of Notice. Notice of entry of judgment must be in the following form:

- (A) a written notice of the entry of judgment;
- (B) a minute entry; or
- (C) a conformed copy of the file-stamped judgment.

(3) Lack of Notice. Lack of notice of the entry of judgment by the clerk does not affect the time to appeal or relieve or authorize the court to relieve a party from the failure to appeal within the allowed time, except as provided in Arizona Rule of Civil Appellate Procedure 9(f).

(d) Remittitur.

(1) Procedure. A party in whose favor a verdict or judgment has been rendered may, in open court, or in a writing filed with the court, remit any part of the verdict or judgment. A remittitur announced in open court must be set forth in a minute entry.

(2) Effect on Execution. After remitting a portion of a judgment or verdict, a party may execute on a judgment only for the balance of the judgment or verdict after deducting the amount remitted.

(3) Effect on Right of Appeal. The remittitur does not affect the rights of the opposing party to appeal from the judgment, and for purposes of appeal the amount of the original judgment must be considered the amount in controversy.

APPENDIX A-11

PXG's Motion to Quash Subpoena

1 Jacqueline Pakula, Esq. (#036739)
2 PXG WORLDWIDE, INC.
3 15475 N. 84th Street
4 Scottsdale, AZ 85260
5 (480) 398-2550 (T)
6 (480) 750-4988 (F)

7 Attorney for PXG Worldwide, Inc.

8 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**
9 **IN AND FOR THE COUNTY OF MARICOPA**

10 **ROBERT PARSONS and RENEE**
11 **PARSONS, husband and wife,**

12 **Plaintiffs,**

13 **v.**

14 **TOBY HARRIS and JANE DOE HARRIS,**
15 **husband and wife; JOHN and JANE DOES**
16 **1 - 10; ABC CORPORATIONS 1 - 10; and**
17 **XYZ PARTNERSHIPS 1 - 10,**

18 **Defendants.**

19 Case No.: CV2023-002276

20 **PXG WORLDWIDE, INC.'S**
21 **MOTION TO QUASH**
22 **SUBPOENA**

23 *(Assigned to the*
24 *Honorable Katherine Cooper)*

25 Non-party PXG Worldwide, Inc., through counsel undersigned, hereby submits its
26 objections and motion to quash the subpoena served on it by Defendant Toby Harris. For
27 the reasons set forth in the accompanying Memorandum of Points and Authorities
28 incorporated by this reference, the subpoena is overly broad, unduly burdensome, seeks
proprietary and confidential financial and commercial information, and is not relevant to
any issue in the underlying litigation as PXG Worldwide, Inc. understands the parameters
of the litigation.

MEMORANDUM OF POINTS AND AUTHORITIES

PXG Worldwide, Inc. ("PXG") is a privately held, global sports equipment company,
with hundreds of employees. It is not a party to this case, although Mr. Parsons is the
company President. Mr. Parsons has separate counsel in his defamation lawsuit. The Court
file in this case indicates that the case is a defamation action brought by Bob and Renee
Parsons, individually, relating to defamatory statements made by Defendant Mr. Harris.

1 This Court has already granted a request for temporary restraining order, and required
2 Defendant to take down the website <https://boycottpxg.com>. A motion to designate Mr.
3 Harris as a vexatious litigant is currently pending before the Court.

4 PXG understands that the sole support Defendant has offered to support his
5 defamatory statements are the documents he attached to his Answer. Seemingly therefore
6 there is no need for Defendant to conduct any discovery since by his own admission he
7 never relied upon any documents before making the defamatory statements. Any discovery
8 relating to Mr. Parsons's damages for damage to reputation or otherwise are separate than
9 damages sustained by PXG; PXG is a non-party and is not seeking damages in this action.

10 Rule 45 of the Arizona Rules of Civil Procedure provides that a trial court should
11 quash a subpoena if it subjects a person "to undue burden or expense," requires disclosure
12 of "privileged or other protected matter," or of "trade secret or other confidential research,
13 development, or commercial information." See Rule 45 (2). All of the Defendant's requests
14 are either unduly burdensome or expensive to comply with, or seek confidential commercial
15 information. Additionally, it appears that Defendant is serving the subpoena to avoid the
16 procedures of Rule 34 of the Arizona Rules of Civil Procedure.¹ *MacDonald v. Hyder*, 12
17 Ariz. App. 411, 471 P.2d 296 (1970). Items three, four, and five fail to provide reasonable
18 particularity. *Helge v. Druke*, 136 Ariz. 434, 666 P.2d 534 (App. 1983).

19 The Defendant's requests and objections are as follows:

20 1. *A one page summary document from each year in business that shows the total*
21 *manufacturing proceeds and Expenditures between PXG and PING/Karsten Worldwide,*
22 *from the inception of the PXG business to the present date.*

23 This request seeks confidential commercial data, which PXG considers to be a trade
24 secret. PXG is not a publicly traded company. Preparing a one-page document of the type
25 described by Defendant would entail expenditure of time to sort through and summarize
26

27 _____
28 ¹ The subpoena simply attaches the request for production of documents propounded to
Robert and Renee Parsons.

1 voluminous financial data. It is also unclear how the request relates to Mr. Parsons's request
2 for damages due to defamation.

3 2. *All documents signed by PING/KARSTEN Worldwide attorney Bill Gates in*
4 *the possession of PXG and any of its agents. From PXG inception to present.*

5 "All" documents is overly broad. "[A]ny of its agents" is ambiguous. "From inception to
6 present" is overly broad. The request is burdensome as it would require review of
7 voluminous documents to attempt to locate any documents signed by Mr. Gates. It is also
8 unclear how the request relates to Mr. Parsons's request for damages due to defamation.

9 3. *Prospectuses, brochures, pitch decks used for investment presentations to*
10 *potential or current shareholders. From PXG inception to present.*

11 This request seeks confidential commercial data, which PXG considers to be a trade
12 secret. PXG is not a publicly traded company. Assembling any previous documents relating
13 to "investment presentations" would entail an enormous expenditure of time to sort through
14 and summarize voluminous financial data. "From inception to present" is overly broad. It
15 is also unclear how the request relates to Mr. Parsons's request for damages due to
16 defamation.

17 4. *Any documents, showing total damages incurred by PXG as a result of*
18 *boycottpxg.com*

19 This request is a non-sequitur. PXG is a non-party and is not seeking damages in this
20 lawsuit. PXG has never conducted an analysis of this issue, and to do so would require the
21 expenditure of a large number of manhours. It is also unclear how the request relates to Mr.
22 Parsons's request for damages due to defamation.

23 5. *Documents and emails which amount to any non-privileged statements which*
24 *mention boycottpsg.com, Toby Harris.*

25 PXG is a non-party and is not seeking damages in this lawsuit. PXG has never
26 conducted a search companywide to obtain such documents, and to do so would require the
27 expenditure of a large number of manhours. It is also unclear how the request relates to Mr.
28 Parsons's request for damages due to defamation.

APPENDIX A-12

PXG's Reply in Support of Motion to Quash

1 Jacqueline Pakula, Esq. (#036739)
2 PXG WORLDWIDE, INC.
3 15475 N. 84th Street
4 Scottsdale, AZ 85260
5 (480) 398-2550 (T)
6 (480) 750-4988 (F)

7 Attorney for PXG Worldwide, Inc.

8 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**
9 **IN AND FOR THE COUNTY OF MARICOPA**

10 ROBERT PARSONS and RENEE
11 PARSONS, husband and wife,

12 Plaintiffs,

13 v.

14 TOBY HARRIS and JANE DOE HARRIS,
15 husband and wife; JOHN and JANE DOES
16 1 – 10; ABC CORPORATIONS 1 – 10; and
17 XYZ PARTNERSHIPS 1 – 10,

18 Defendants.

Case No.: CV2023-002276

**PXG WORLDWIDE, INC.'S
REPLY IN SUPPORT OF ITS
MOTION TO QUASH
SUBPOENA**

*(Assigned to the
Honorable Katherine Cooper)*

19 Non-party PXG Worldwide, Inc., through counsel undersigned, hereby submits its
20 objections and motion to quash the subpoena served on it by Defendant Toby Harris. For
21 the reasons set forth in the accompanying Memorandum of Points and Authorities the
22 subpoena should be quashed.

MEMORANDUM OF POINTS AND AUTHORITIES

23 As previously set forth in non-party PXG's Motion to Quash Subpoena, Defendant
24 has propounded a subpoena setting forth overly broad and harassing requests for documents.
25 None of the requests constitute legitimate discovery. They largely seek confidential
26 financial information. All of them are burdensome and would require large amounts of time
27 to either create documents or confirm whether such documents even exist. And, as set forth
28 previously by PXG none of these documents relate to the damages sought by Plaintiffs. Nor
are the documents relevant to any defense, since Defendant has already admitted that the

1 sole support for the defamatory statements made are somehow contained in the three
2 documents attached to his Answer.

3 Also of significance, the documents requested in the subpoena are simply requests
4 for production of documents previously served upon Plaintiffs. Plaintiffs objected to
5 production of those documents, and PXG understands that the reasons the requests were not
6 appropriate discovery was set forth. Notwithstanding that knowledge, Defendant merely
7 converted his improper request for production to a subpoena to PXG.¹

8 Tellingly, Defendant's *only* response to the Motion to Quash is the unfavored
9 technical defense of timeliness. Of course, as this Court well knows the law's strong
10 preference is for resolution of disputes on their merits. *Hirsch v. National Van Lines,*
11 *Inc.*, 136 Ariz. 304, 666 P.2d 49 (1983); *Union Oil Co. of California v. Hudson Oil Co.*, 131
12 Ariz. 285, 640 P.2d 847 (1982). This Court should not allow clearly burdensome,
13 expensive, and oppressive discovery to move forward merely due to an inadvertent clerical
14 or ministerial error in calendaring the date during the Thanksgiving holiday season. Of
15 course, there is not even a suggestion of any prejudice to the Defendant, and absolutely no
16 prejudice exists that should prevent resolution of the Motion on its merits.

17 Defendant has cited no authority to support the proposition that an untimely objection
18 to a discovery request is a binding waiver upon a party or a court that finds the discovery to
19 be otherwise improper. As the Court is no doubt well aware, the cases are legion that hold
20 the hyper technical defense of timeliness to object or move to quash a subpoena is disfavored
21 and should not prevent a Court from deciding whether discovery via subpoena is legitimate.
22 *See, e.g., Yousuf v. Samantar*, 451 F.3d 248 (U.S. App. D.C. 2006) (district court did not
23 abuse its discretion by considering an untimely objection to a subpoena served upon the
24 United States as a nonparty, since the government acted in good faith, the counsel for the
25 government promptly contacted the counsel of the party seeking production, and the
26 subpoena was broad enough to raise a question of overbreadth); *Nelson v. State Farm Fire*

27

28 ¹ The Court file reflects that a motion to designate Defendant as a vexatious litigant is
pending before the Court.

1 *and Casualty Co.*, 2020 WL 7248186 (D.N.M. 2020) (untimely objection was excused
2 because the non-party's delay was due in part to Defendant's delay in seeking to enforce the
3 subpoena and because the non-party withheld certain documents based on its good faith
4 belief that the subpoena was overly broad and unduly burdensome); *Sanchez Y Martin, S.A.*
5 *de C.V. v. Dos Amigos, Inc.*, 2018 WL 2387580 (S.D. Cal. 2018) (court found that overbroad
6 nature of subpoena was sufficiently unusual circumstances to find objections not waived);
7 *Walinbay S.A. v. Fresh Results, LLC*, 2014 WL 1267170 *2 (S.D. Fla. 2014) (“[A] finding
8 that [movant] waived his objections based upon a one business-day delay . . . would elevate
9 form over substance.”); *Viking Yacht Co. v. Composites One LLC*, 2007 WL 869623 (D.C.
10 Tenn. 2007) (a non-party's failure to serve timely objections does not operate as waiver
11 when the subpoena is overbroad or unfair, the nonparty acted in good faith, and counsel
12 have been in contact regarding compliance with the subpoena).

13 PXG respectfully requests that this Court quash the subpoena, and rule that PXG is
14 not required to produce or attempt to produce any of the requested information.

15 DATED this 28th day of December, 2023.

16 **PXG WORLDWIDE, INC.**

17 By /s/ Jacqueline Pakula
18 Jacqueline Pakula
19 15475 N. 84th Street
Scottsdale, AZ 85260
Attorney for PXG Worldwide, Inc.

20 **ORIGINAL** of the foregoing *e-filed* via
21 TurboCourt this 28th day of December, 2023,
and copies electronically transmitted to:

22 The Honorable Katherine Cooper
23 Maricopa County Superior Court

24 Holloway, Odegard & Kelly, P.C.
25 Sally A. Odegard
Stephen M. Hopkins
26 2930 E. Camelback Road, Suite 200
Phoenix, Arizona 85016
Attorneys for Plaintiffs Robert and
27 Renee Parsons
28

1 Toby Harris
13602 N. 44th Street #149
2 Phoenix, AZ 85032
tharris789@aol.com
3 Defendant *Pro Per*

4 By: /s/ K. Buensalido
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APPENDIX A-13

PXG's Reply in Support of Motion to Extend Time to Quash Subpoena

1 Jacqueline Pakula, Esq. (#036739)
2 PXG WORLDWIDE, INC.
3 15475 N. 84th Street
4 Scottsdale, AZ 85260
5 (480) 398-2550 (T)
6 (480) 750-4988 (F)

7 *Attorney for PXG Worldwide, Inc.*

CLERK OF THE
SUPERIOR COURT
***** FILED *****
T. UARELA, DEPUTY CLERK
2025 FEB 20 AM 11:03

8 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**
9 **IN AND FOR THE COUNTY OF MARICOPA**

10 **ROBERT PARSONS and RENEE**
11 **PARSONS, husband and wife,**

12 **Plaintiffs,**

13 **v.**

14 **TOBY HARRIS and JANE DOE HARRIS,**
15 **husband and wife; JOHN and JANE DOES**
16 **1 – 10; ABC CORPORATIONS 1 – 10;**
17 **and XYZ PARTNERSHIPS 1 – 10,**

18 **Defendants.**

Case No.: CV2023-002276

REPLY IN SUPPORT OF
MOTION TO EXTEND TIME TO
QUASH SUBPOENA

(Assigned to the Honorable
Scott Minder)

19 Non-party PXG Worldwide, Inc. ("PXG"), hereby submits its Reply in support of its
20 previously filed Motion to Extend Time to File Its Motion to Quash Subpoena. This Reply
21 is supported by the accompanying Memorandum of Points and Authorities incorporated by
22 this reference.

MEMORANDUM OF POINTS AND AUTHORITIES

23 **I. DEFENDANT'S SUBPOENA DID NOT COMPLY WITH THE RULES**

24 Defendant's argument that his subpoena was compliant with the rules is nonsense.
25 PXG readily concedes that the "boilerplate" part of the subpoena is simply a Court form,
26 and PXG's objections did not relate in any way to the form of the subpoena.

27 As set forth in PXG's Motion To Extend, Defendant failed to comply with Rule 45
28 because he never provided notice of his intent to send a subpoena as clearly required by the
Rule.

1 Defendant's mailing certificate was false; the subpoena indicated it had been sent to
2 counsel for Mr. and Mrs. Parsons on the date the subpoena was issued but this was not the
3 case.

4 Defendant has never made a good faith attempt to limit the inappropriate and overly
5 broad categories of information sought as required before seeking Court intervention.

6 Most significantly, the abusive and harassing nature of the various requests itself is
7 inconsistent with Rule 45, as it clearly seeks trade secret and confidential commercial
8 information and any attempt to respond would subject PXG to tremendous expense. For
9 example, Defendant sought "all" documents signed by PING Golf attorney Bill Gates in
10 possession of PXG or "any of its agents" from "inception to present."¹ Even attempting to
11 look for such documents (if any even exist) at a company the size of PXG would be
12 extraordinarily time consuming and burdensome. Likewise, Defendant has sought "total
13 manufacturing proceeds and expenditures" and "profits and loss statements" from
14 "inception to current years." This is a request for confidential commercial information,
15 which PXG considers to be trade secret. And none of the information requested in the
16 subpoena relates to Mr. and Mrs. Parsons's damages for defamation.

17 It should be noted and stressed that the Honorable Katherine Cooper already granted
18 PXG's Motion to Quash on that basis. There is nothing in the Court of Appeals'
19 Memorandum Decision that somehow precludes this Court from quashing the subpoena on
20 its own motion. That is certainly consistent with the Court's obligations to protect non-
21 parties to a lawsuit from needless burden and expense. It is also consistent with Rule 1 of
22 the Arizona Rules of Civil Procedure, which provides that when interpreting the rules such
23 interpretation should be "to secure the just, speedy, and inexpensive determination of every
24 action and proceeding."

25 ///

26
27 _____
28 ¹ Defendant's theory is apparently that the Honorable Pamela Gates accepted a bribe from
Mr. and Mrs. Parsons, which is what led Judge Gates to rule against Defendant in a prior
and unrelated case, and to declare him a vexatious litigant in that case.

1 **II. THE SLIGHT DELAY IN MOVING TO QUASH THE SUBPOENA WAS**
2 **DUE TO "EXCUSABLE NEGLIGENCE"**

3 PXG has more than amply demonstrated "excusable neglect" for providing its
4 Motion to Quash more than fourteen days after it was served. Defendant has cited no case,
5 from any jurisdiction, that supports his opposition to having the Motion to Quash decided
6 on its merits.

7 "Excusable neglect" is not specifically defined by Rule 6 of the Arizona Rules of
8 Civil Procedure and the term is used in various contexts throughout the rules, such as a Rule
9 60 motion for relief from a judgment, or a Rule 38.1 motion to reinstate. A review of the
10 case law and other legal authority indicates that it is a fact specific inquiry in which context
11 matters.

12 As stated in 49 C.J.S. Judgments, § 558:

13 In considering excusable neglect a court must consider the facts and circumstances
14 in each particular case, and the determination is equitable one, taking account of all
relevant circumstances.

15 While the term "excusable neglect" has been defined, according to some authority it
16 has no fixed meaning, and cannot be determined by fixed rules or standards. In order
17 to excuse a default and open or set aside a default judgment on the ground of
excusable neglect such neglect must be determined on a case-by-case basis. Thus,
the court must consider the facts and circumstances in each particular case.

18 When deciding whether or not a default judgment may be set aside because of
19 excusable neglect, the court must consider the unique factual background of each
20 case. The determination is at bottom an equitable one, taking account of all relevant
21 circumstances surrounding the party's omission, including the length of delay and its
22 potential impact on judicial proceedings, the reason for the delay, including whether
it was within the reasonable control of the movant, and whether the movant acted in
good faith.

23 To the same effect is 47 Am. Jur.2d Judgments § 662:

24 The term "excusable neglect" refers to neglect of a nature that would cause a
25 reasonably prudent person under similar circumstances to act similarly. It requires a
26 party to show that the neglect was occasioned by some extenuating circumstances of
27 sufficient significance to render it excusable. Excusable neglect may be found when
28 a default was attributable to an honest mistake that is compatible with due diligence
or reasonable prudence. Excusable neglect implies good faith and some reasonable
basis for noncompliance with the rules. What constitutes excusable neglect depends

1 Supreme Court overturned a judgment entered in a condemnation action.² The secretary for
2 the defendant mis-calendared the time to file a Rule 52 motion to alter or amend the
3 judgment. Since the Rule 52 motion was not timely, it did not operate to extend the time to
4 take an appeal. The Arizona Supreme Court granted the request to have the judgment re-
5 entered so that an appeal could be taken. As stated in *Geyler*:

6 The standard for determining whether conduct is "excusable" is whether the neglect
7 or inadvertence is such as might be the act of a reasonably prudent person under the
8 same circumstances. *Coconino Pulp v. Marvin*, 83 Ariz. at 120, 317 P.2d at 552.
9 Many cases have been decided since *Coconino Pulp*, and we do not intend to review
10 them all. We recently indicated that clerical and secretarial errors in office procedures
11 are "unavoidable and ... [often] excusable." *Daou v. Harris*, 139 Ariz. 353, 360, 678
12 P.2d 934, 941 (1984). We noted again that the "test of what is excusable is whether
13 the neglect or inadvertence" is of the type that might be "the act of a reasonably
14 prudent person." *Id.* at 359, 678 P.2d at 940. If there is a trend in the Rule 60(c)(1)
15 cases and those decided under the identical federal rule, it is that diligence is the final
16 arbiter of whether mistake or neglect is excusable. *Rodgers v. Watt*, 722 F.2d at 459-
17 60; see generally *Daou v. Harris*, *supra*; *Smith v. Jackson Tool and Die*, 426 F.2d 5
18 (5th Cir.1970); *Calkins, The Emerging Due Diligence Standard for Filing Delayed*
19 *Notice of Appeal in Federal Courts*, 19 Willamette L.J. 609 (1983).

20 144 Ariz. at 331-32, 697 P.2d at 1081-82.

21 The reason for the delay in objecting in this case was not due to any lack of diligence,
22 but was rather the inadvertence of a reasonably prudent person. To reiterate, PXG provided
23 its legitimate objections before the return date of the subpoena.

24 The *Coconino Pulp* case cited by *Geyler*, but conspicuous by its absence from
25 Defendant's Response, is also on point. *Coconino Pulp* involved a default judgment entered
26 against Coconino Pulp and Paper Company. The time to provide an answer was not properly
27 calendared by the firm's secretary, and a default judgment was entered. The Court of
28 Appeals in overturning the default judgment noted that equitable principles dictate a "fair

² In the case of a default judgment there is a countervailing policy consideration relating
the finality of judgments. By contrast, with respect to the motion to quash the subpoena
there are no countervailing policy arguments that support Defendant's position regarding
waiver.

APPENDIX B-1

Motion to Vacate and Resintate Reply and timestamp

ARIZONA SUPREME COURT

CV-25-0279-PR

Bob Parsons, et al.
[Name of Plaintiff],

CA-CV 25-0285

[Appellant/Appellee],

Superior Court
Case No. 2023-002276

v.

Toby Harris
[Name of Defendant],

MOTION TO VACATE ORDER
STRIKING REPLY AND
REINSTATE REPLY

[Appellant/Appellee].

MOTION TO VACATE ORDER STRIKING REPLY BRIEF AND
REINSTATE REPLY

On Nov. 17th, 2025 Justice King issued an order striking the Appellant's reply brief citing the procedural rule which requires the AZ Supreme Court grant an invitation to file the brief. On Nov. 22nd, 2025 the appellant filed a Motion to recuse Justice King on the grounds and stating facts that the Judge was a partner in the law firm Burns Barton which drafted the original vexatious motion which blocked Harris' Constitutional free access to the Courts and would later be used as the precedent which forced a vexatious order in the instant matter. At the time it was not known that Judge Gates, the author of the original vexatious order, may have already been in business with Parsons via a manufacturing golf club contract between PXG and Ping/Karsten manufacturing. Subsequently, it is not known if Burns Barton knew that either.

The glaring fact that Justice King's law firm was paid by Parsons to take an adverse position against Harris alone easily meets the requirements under A.R.S. Supreme Court rule 81, Code of Judicial conduct, Rule 2.11 (A)(1) for judicial disqualification. Since Justice King knows the background on these issues that are bound under attorney-client privilege, it is unfair to allow the Justice to make any rulings against Harris since it is viewed as an extension of the previous litigation.

in which she was a compensated party. This means that the order was not a neutral procedural ruling but a compromised one, which undermines the fairness rule in applying the invitation rule against appellant. Appellant did not invite the error, it was imposed sua sponte, induced by the other parties influence in the matter. The order is thus voidable, *Rosenberg v. Sanders*, 1 CA-CV-21-0246 (Ariz. Ct. App 2022), which clarified that procedural defects render orders voidable, not void, which require a motion to vacate.

Both AZ Rules of Civil Appellate procedure Rule 6(b)(2) and AZ Rules of Civil Procedure 60 (b)(1)(6), allows for the order to be vacated.

The Reply needs to be reinstated since it would be highly prejudicial to not allow it. It is necessary to restore fairness, since the striking of the reply was done by a team member of the law firm Parsons retained and paid, and issues from the original lawsuit remain pending before this Court. Appellant is adversely affected by the order to strike the reply.

The motion is timely and filed within 15 days of the order.

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ATTACHMENT NAME: MOTIONS/STIPULATION - Other Motion: Motion to Vacate Order Striking Reply and Reinstate Reply		
CASE NAME: PARSONS et al v HARRIS	CASE NUMBER: CV-25-0279	
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APPENDIX B-2

Motion to recuse, affidavit, and timestamps

ARIZONA SUPREME COURT

CV-25-0279-PR

Bob Parsons, et al.
[Name of Plaintiff],

CA-CV 25-0285

[Appellant/Appellee],

Superior Court
Case No. 2023-002276

v.

MOTION TO RECUSE JUSTICE
KATHRYN KING

Toby Harris
[Name of Defendant],

[Appellant/Appellee].

INTRODUCTION

This Motion seeks recusal of Justice Kathryn King on the grounds of appearance of impropriety, integrity of proceedings, bias, traceable financial interest, due process, and conflict of interest.

BACKGROUND AND ARGUMENT

On November, 17th 2025 Justice Kathryn King issued an order in this matter striking down the Defendant/Petitioners reply brief on procedural rule, Rule 23(f)(4), which requires that a petitioner wait for an invitation from the Court to file a reply. This conflicts with AZ Rules of Civil Procedure Rule 6(a)(2) which states, "Any party may file a response to a motion within 10 days of service of the motion. The moving party may file a reply within 5 days." And, AZ Rules of civil Procedure Rule 13 (b)(c), "If the Appellant files a reply brief, it must be strictly confined to rebuttal of points made in the appellees answering brief. A party may file an additional brief after a reply only with the appellate courts permission", which amounts to a sur reply.

The order is voidable as filed due the authoring Justice and Constitutional right. The reply brief contained a fundamental rights argument, involving Abdication of

Constitutional rights by the AZ Court of Appeals, which is not subject to procedural rules which this Court determined in, *Dombey v Phoenix Newspapers, Inc.* 150 Ariz. 476,724 p2d 562 (1986), since Dombey preempts the procedural rule requiring invitation or any waiver, to enter a new argument of statewide importance in a reply brief, King's striking the reply brief conflicts with Constitutional right under Dombey which allows for it. Voidable orders force the non-elite to bear the burden of undoing judicial error. This burden shifting itself is unconstitutional because courts cannot abdicate thier duty and then force litigants to clean up the breach. At the very least Rule 23 (f)(4) should be footnoted by legislature to allow a reply brief which contains a fundamental argument of statewide importance without the need for an invitation from the Surpreme Court, since case law allows for it.

Justice Kathryn King comes from the law firm Burns Barton, where she was a partner of the law firm.¹ Burns Barton has since merged into Fennemore. The original muzzle/vexatious order was filed by Justice King's law firm, Burns Barton during the litigation captioned *Corbin et al. v. Godaddy* AZ Superior Court CV2010-016149², on June, 9th, 2020, which struck down Harris's Consitutional right to free access to the court. At the time, Harris was attempting

¹ https://en.wikipedia.org/wiki/Kathryn_Hackett_King, "In 2017, King became a partner at the woman-owned law firm Burns Barton, where she practiced employment law"

² <http://www.superiorcourt.maricopa.gov/docket/CivilCourtCases/caseInfo.asp?caseNumber=CV2010-016149> , Ben Naylor was a Partner at Burns Barton at the time,

to submit evidence of an internal Godaddy email in which executives agreed that Harris was correct, that commissions were in fact guaranteed to the employees. Godaddy had thier law firm, Burns Barton, silence Harris via filing of a vexatous litigant order blocking access to the Court. The billionaire, Parsons, then ascended to the ranks of the ultra wealthy leaving thousands of Godaddy crime victims and made golf clubs with the proceeds, never reimbursing his crime victims.

Harris argued in the instant matter that the author of the vexatious order in Corbin, Judge Pamela Gates, was actually at the time the order was written, a Business partner of Parsons via a golf club manufacturing contract between PXG and Ping/Karsten manufacturing the COA below allowed for Parsons to ignore the subpoena which required turning over all the documents between the two organizations. This due process issue is also an issue in the reply brief which Justice King struck.

Now all the evidence between PXG and Ping has been destroyed, which is the matter in front of this Court, contingent on if the reply is allowed to be revived. If Justice King's law firm was counsel in the vexatious order to silence Harris, she has already taken an adverse position against Harris. This appears more as an act of self preservation than procedural enforcement, and Justice King is striking a necessary defense argument when the Defendant has already been compromised

by the Courts via irrational overreach in the non enforcement of discovery subpoena, striking of his free access to the Courts, striking of free speech, the defendant is not allowed to do anything before the AZ Courts except stand there and get ruled against and present absolutely no defense, while his guaranteed Constitutional rights are left silent by the Courts sworn to uphold them. This creates a reasonable perception of bias and a financial conflict. see, attached affidavit. Recusal is necessary to preserve public confidence in the Judiciary, pursuant to A.R.S. Sup Ct. Rule, Rule 81, Code of Jud. Conduct, Rule 2.11, disqualification (A)(1)

CONCLUSION

Petitioner respectfully moves for the recusal of Justice King from further participation in this matter.

Dated: 11/22/25

704 Almiri
Name
13600 N 44th St # 140 Phoenix
Address AZ
85032

AFFIDAVIT IN SUPPORT OF MOTION TO RECUSE

1. Toby Harris. declare under penalty of perjury as follows:

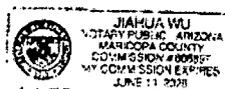
1. I am the defendant in the above captioned matter.
2. This affidavit is submitted in support of my Motion to Recuse Justice Kathryn King pursuant to A.R.S. Sup Ct. Rule, Rule 81, Code of Jud. Conduct, Rule 2.11, disqualification (A)(1)
3. On information and belief, Justice King was previously a partner at Burns Barton.
4. Burns Barton PLC has represented parties whose interest are directly implicated in this litigation, creating an appearance of partiality.
5. Justice King's prior affiliation with Burns Barton PLC raises reasonable questions regarding impartiality in these proceedings.
6. It is already acknowledged by both parties that Bob Parsons, the plaintiff, was the majority shareholder of Godaddy at the time.
7. I respectfully request that Justice King be recused from any further involvement in this matter.

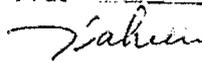
I declare under penalty of perjury that the foregoing is true and correct.

Executed on 11/22/25 at Phoenix, AZ.



Toby Harris




11-22-2025

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ATTACHMENT NAME: MOTIONS/STIPULATION - Other Motion: Motion to Recuse Justice Kathryn King		
CASE NAME: PARSONS et al v HARRIS	CASE NUMBER: CV-25-0279	
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ATTACHMENT NAME: AFFIDAVIT Other: (Duplicate) Motion to Recuse Justice Kathryn King		
CASE NAME: PARSONS et al v HARRIS	CASE NUMBER: CV-25-0279	
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APPENDIX B-3

Motion for Ruling and Motion for withdraw

MOTION FOR RULING

Comes now the Defendant and respectfully moves this Court to issue rulings currently pending Motions filed on or about, Nov 23rd, 2025 and currently awaiting adjudication. These motions were properly filed, properly served and remain unresolved. Thier disposition is necessary for the orderly progression of this matter. These are the Motion for Recusal and Motion to Vacate Order and Reinstate Reply Brief.¹

A Court has the duty to rule on Motions that are properly before it. The absense of rulings prevents the parties from understanding the governing standards, impedes the ability to prepare or respond, and obstructs meaningful participation in the proceedings. Without rulings, no issues can be joined, no record can be developed, and no appellate review is possible.

Even assuming the Justice was unaware of the actions of her business partners, the resulting entanglements nonetheless create an appearance of impropriety that must be addressed through a timely ruling . Judicial ethics do not require actual knowledge of a conflict, they require avoidance of the circumstances in which a

¹ The Supreme Court held that when a Judge with a financial or structural conflict participates in a case, due process is violated, Caperton v. Massey, 556 U.S 868 (2009) however Caperton deals with a Judge refusing to recuse and still making rulings. In this matter there is no ruling at all. This blocks certification of panel, adjudication, leaves unresolved motions, traps a litigant in a forum with an unresolved financial conflict. Since this is a house keeping motion, Defendant will not argue due process rights here.

reasonable observer could question impartiality. The Justices continued refusal to rule on the pending motions leaves these concerns unresolved and prevents the Court from proceeding.

The Defendant therefore requests that the Court issue rulings on the pending motions or in the alternative, provide a written explanation for any continued refusal or inability to rule. The request is made solely to clarify the procedural posture of the case and ensure the matter proceeds in a manner consistent with due process and the Court's obligations.

MOTION FOR WITHDRAW OF PETITION FOR REVIEW

The Defendant respectfully moves to withdraw the Petition for Review and return the case to the lower Court with no appellate determination. The Courts unresolved conflicts and refusal to rule on motions necessary to create a complete and Constitutionally adequate record have made meaningful litigation impossible. In short it is a collapse of jurisdictional structure. Continued participation would require acquiescence to standards incompatible with due process and the rule of law. Ironically a litigant does not come to the Supreme Court to have his rights further violated, and ignored, but the trial Court will have to dispense the proper penalty and consequences for what has occurred.

Without rulings, the defendant cannot respond to allegations and engage with the process. The absence of rulings creates a procedural vacuum in which no rights can be exercised and no issues can be adjudicated.

The trial Court can address the collapse of appellate Court Jurisdiction and address the consequences of the destroyed evidence and evaluate the pleadings under the proper standard and reissue its Judgment. Because the Jurisdictional prerequisites for adjudication no longer exist, the Court lacks the authority to proceed and dismissal is the only procedurally available outcome.

By returning jurisdiction to the lower Court without a mandate it creates an unusual situation where nothing is final, nothing is executable, nothing is directed. There is no binding appellate command. The trial Court then must address all unresolved defects: destroyed evidence, incorrect pleading standards, unresolved motions, incomplete record, jurisdictional defects

Since the Trial Court is the only Court capable of repairing the defects. On return to the trial Court the Plaintiffs cannot argue against the absence of jurisdiction since it is a condition that that Court must possess, even if jurisdictional structure collapsed after the Judgment was rendered and on appeal, vacatur and dismissal

become mandatory. Without jurisdiction all claims must be dismissed.

CONCLUSION

The Court can take it's pick, either rule on the pending motions and the Motion for Withdraw of Petition for Review becomes moot. Or Grant the Motion for Withdraw of Petition for Review and the Motion for Ruling becomes moot.

Dated: 1/10/2026

/s/

Toby Harris, Pro Se

13602 N. 44th St. #149, Phoenix AZ

85032

Address

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ATTACHMENT NAME: MOTIONS/STIPULATION - Other Motion: Motion for Ruling and Motion to Withdraw Petition for Review		
CASE NAME: PARSONS et al v HARRIS	CASE NUMBER: CV-25-0279	
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APPENDIX c-1

Reply to Parsons's response to Harris's Petition for Review (copy), timestamp of filing, screenshot of document stricken from record

ARIZONA SUPREME COURT

CV-25-0279-PR

Bob Parsons, et al.
[Name of Plaintiff],

CA-CV 25-0285

[Appellant/Appellee],

Superior Court
Case No. 2023-002276

v.

Toby Harris
[Name of Defendant],

**REPLY TO PARSONS'S
RESPONSE TO HARRIS'S
PETITION FOR REVIEW**

[Appellant/Appellee].

Toby Harris files this reply to the Parsons response to the Petition for review. The Parsons attorneys do a great job in arguing procedure and waiver, however we are in the wrong Court for that. Plaintiffs omit the Constitutional argument and document destruction and sit on waiver and res judicata as their golden ticket to finality. It's not a meritorious counter argument, It's a hail mary wish that the AZ Supreme Court will not grant review.

Again Constitutional rights are not procedural, they are doctrine. This means they are not waived if they are not raised as an affirmative defense, they are part of the structural and procedural legal frame work that governs defamation claims and the Courts will apply them as long as the facts implicate the standards, and they do in this matter. Constitutional rights only need to be asserted, and here they were:

On March 11th, 2025, the Defendant filed a reply argument onto the trial Court record at pg.2 ¶2 it states, "However there is one caveat that was omitted in the argument, Mr. Bob Parsons is defined as an all purpose public figure, *Gertz v. Robert Welch, Inc.* 418 U.S. 323,345 (1972), he is one of the 2,781 billionaires in the world and is on the Forbes list of the worlds richest individuals each year, head of major corporations, has achieved fame and notoriety, has his name

advertised in golf through PXG national advertisement which he does the voice overs for, a philanthropic donor with his Bob and Renee Parsons foundation, a serial entrepreneur, been engaged in public controversy for killing an elephant, written a book about his life publicly available to everyone, appears on CNBC and various public media." and at Pg.3 Sullivan is asserted, "The Case law requires that a public figure has to prove malice, New York Times Co. v. Sullivan 376 U.S. 254 (1964)" also, Pg3. "AZ Courts require a finding of malice for public figures suing for defamation, Dombey v Phoenix Newspapers, Inc. 150 Ariz. 476,724 p2d 562 (1986) In addition there is a discussion that issues of Constitutional right are non waivable in Dombey, they have to be heard by the Court, but if we go to appeals they can sort through that issue." (emphasis added) Waiver is irrelevant where Constitutional doctrine controls, the Petitioner referenced Parsons wealth, media presence, and philanthropic activity, preserving the public figure issue.

What the Parsons attorneys essentially did was wheeled a giant wooden horse into the Court of Appeals with the words "negligence/defamation per se" painted across it. The Court of appeals looked at it, and determined it looked procedural and harmless. But they failed to look at what was inside, had they done so, they would have found a public figure and hundreds of thousands of destroyed documents subject to subpoena.

But further, and more importantly, the COA saw that Constitutional right was properly preserved and issued waiver and a failure to rule on the document destruction not as a mere err, but because they didn't want to see what it would reveal. This is called abdicating the ruling, the COA failed to rule on the issues altogether, in other words the COA is not going to be the panel to strike down powerful people, its gotta come from a more omnipotent power, like the AZ Supreme Court. This isn't an isolated error. It's part of a broader pattern of judicial abdication- where Courts refuse to weigh constitutional issues to shield the powerful from consequence. *Coalition Life v. City of Carbondale*, No.24-57 Feb 24, 2025 604 U.S. (2025) Justice Clarence Thomas dissenting, "The Court's refusal to grant certiorari in this case is an abdication of our judicial duty to protect speech under the First Amendment." Justice cannot be allowed to become a dissenting footnote, the rich and powerful know this and lean on it as a state entitled right, it dilutes Constitutional rights in Courts in allowing for this criminal loophole to even exist. It needs to be doctrine structural law protecting guaranteed rights and forcing thier conclusion. If the Judiciary cannot enforce constitutional rights, then those rights become performative- as a false sense of security imposed on the public.

While AZ has no case law for abdication it does show in federal cases where the

Court refuses to rule on a constitutional issue. But they are argued as abuses of discretion, waivers, or other issues that dont exactly fit. AZ Const. Art. 6, Sect. 3, establishes the AZ Supreme Courts supervision over all Courts of the State, it dictates the actions of all Courts in it's jurisdiction. And in Marbury v. Madison, 5 U.S. 137 (1803), "It is emphatically the province and duty of the judicial department to say what the law is." Marbury establishes that Courts must rule on constitutional questions when presented. AZ not only has no case law on abdication, but what makes this issue even more rarified is that plaintiff's usually bring abdication claims, not defendants. Here it is only noticed mainly because a defendant expects a ruling. Granting review means that abdication would be formally classified as a reviewable error in AZ, but not an ordinary error based on procedure, but a structural error triggering a mandatory review. And that's a big deal because it becomes an actionable tool against institutional corruption. Courts wouldn't be able to just sit on Constitutional rulings as it: exposes procedural avoidance, forces transparency, empowers the disempowered. It would be a law that would disrupt corruption, and deter judicial complicity. Thats substantial, because, taxpayers dont pay judges to sit on the bench and ignore justice. If Judges are going to post hebrew words above thier chambers claiming to stand up for the little guy, then make them live up to it, and not flinch when the job requires reffering a powerful person to criminal investigation otherwise it's sheer hyprocrisy.

So if the Supreme Court frames the issue as abdication, any waiver issue becomes procedurally irrelevant. Waiver is a discretionary filter, Courts can decline to reach issues not properly preserved, but here it was preserved, even in a reply after the remand, the rights were indeed asserted at trial court level. The trial Court didn't rule on it, and the COA didn't rule on it, and Marbury requires it. Abdication is a structural breach, it means the COA refused to rule on a live constitutional issue that it was required to address.

The case presents as civil defamation, but the record reveals conduct that implicates criminal violations- document destruction, obstruction, judicial corruption, misleading pleading on the improper standard designed to evade the Constitutional safeguards. The civil wrapper masks a deeper breach, that if weighed, would trigger consequences far beyond damages. The COA abdicated not out of confusion, but to avoid confronting the criminal implications embedded in the record. They instead left that job to this panel, and passed it off like a hot potato.

By the State allowing the destruction of documents, the State undermined the integrity of the judicial process. The States inaction on the document issue, is harmful and prejudicial to the defendant as his case relied on it. The State cannot

invoke the authority of it's own subpoenas and then refuse to support them when challenged. The destruction of documents that may have implicated a sitting judge in bribery creates, at minimum, the appearance of institutional bias and complicity. Permitting the destruction of evidence on the basis that it may implicate a judicial officer undermines the very foundation of impartial adjudication. The Court cannot be seen as shielding it's own. The issue, should be included as it is subject to the overall scope as it is part of the due process violation.

So in sum, the COA claims defendants waiver of right, due to inaction, but since the rights were clearly invoked on the record and the COA refused to act, that instead is abdication. The Court didn't just misinterpret the law, it refused to apply it at all, the inaction is actually on the Court. And here the appeal isn't just to turn over an err, it's to force a ruling that never happened. To adjudicate the claim without addressing the public figure status is to ignore the Constitutional lens through which the harm must be viewed. This places the Plaintiffs in a surreal posture in which they have to argue that the Courts refusal to engage is somehow procedurally valid, and they can't do that, and are left with no sheild in a Surpeme Court round. This is a complete reversal of burden and logic. It instead becomes a brutal lesson in using procedural traps to prevail unlawfully.

CONCLUSION

This case presents a Constitutional question of exceptional importance, The question is not if the Petitioner used the proper incantation of his rights, but whether the government may retaliate against protected speech aimed at a public actor- and then go silent on the ruling. This Court must confront the heart of the matter- not procedural distractions, but the structural boundaries of government power under the First Amendment. And that question is structural, non-waivable and requires this Courts review.

The AZ Supreme Court should grant review.

Dated: Nov. 10th, 2025

July Allen Hill
Name
13603 W 44th ST 149 Phoenix AZ
Address 85032

APPENDIX C-2

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ARIZONA SUPREME COURT STREET ADDRESS: 1501 W. Washington MAILING ADDRESS: CITY AND ZIP CODE: Phoenix, AZ 85007 BRANCH NAME: Arizona Supreme Court WEBSITE: www.azcourts.gov/clerkofcourt		
ATTACHMENT NAME: REPLY - Reply to Petition for Review: Reply to Parsons Response		
CASE NAME: PARSONS et al v HARRIS	CASE NUMBER: CV-25-0279	
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APPENDIX C-3

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APPENDIX D-1

Supreme Court Docket

Arizona Supreme Court
Civil Petition for Review - Appeal

CV-25-0279-PR

PARSONS et al v HARRIS

Appellate Case Information Case Filed: 24-Oct-2025 Archive on: 16-Jan-2036 (planned) Case Closed: 16-Jan-2026	Dept/Composition
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Side 1. ROBERT PARSONS, et al., Plaintiff/Appellee
(Litigant Group) ROBERT PARSONS, et al.

- Robert Parsons
- Renee Parsons

Attorneys for Plaintiff/Appellee
Sally A Odegard, Esq. (AZ Bar No. 11646)
Stephen M Hopkins, Esq. (AZ Bar No. 10286)

Side 2. TOBY HARRIS, Defendant/Appellant
(Litigant Group) TOBY HARRIS

- Toby Harris

PRO SE

CASE STATUS

Jan 16, 2026....Case Closed

Jan 16, 2026....Decision Rendered

PREDECESSOR CASE(S)	Cause/Charge/Class	Judgment/Sentence	Judge, Role <Comments>	Trial	Dispo
1 CA 1 CA-CV-25-0285					
MAR CV2023-002276	Tortious Interference/Defamation		Scott Sebastian Minder, Authoring Judge of Order Comments. (none)		

CASE DECISION

16-Jan-2026 ORDER

* The Court has received Petitioner's Motion for Ruling and Motion to Withdraw Petition for Review. This is Petitioner's third motion since he filed his petition for review in October 2025. In his petition for review, Petitioner has challenged proceedings

Filed: 16-Jan-2026	Mandate:
Decision Disposition	
<i>Dismissed</i>	

John Lopez

11 PROCEEDING ENTRIES

- 24-Oct-2025 FILED: Petition for Review, Certificate of Service; Certificate of Compliance; Memorandum Decision (Appellant Harris, Pro Se)
- 28-Oct-2025 FILED: Record from CoIA: Electronic Record
- 30-Oct-2025 RECEIPT No.: 2025-00309 ; \$330.00, Authorization: 8303682152552067, Applied to: TOBY HARRIS - Class A Filing Fee (\$330.00) Paid for: TOBY HARRIS - By nCourt LLC
- 6-Nov-2025 FILED: Plaintiff/Appellees Robert and Renee Parsons' Response to Petition for Review; Certificate of Service; Certificate of Compliance (Appellees Parsons, et al)
- 10-Nov-2025 FILED: (STRICKEN per Order Filed 11/17/2025) Reply to Parsons Response; Certificate of Service; Certificate of Compliance (Appellant Harris, Pro Se)
- 13-Nov-2025 RECEIPT No.: 2025-00318 ; \$165.00, Authorization: 8391633970018261, Applied to: ROBERT PARSONS, et al. - Class B Filing Fee (\$165.00) Paid for: ROBERT PARSONS, et al. - By nCourt LLC
- 17-Nov-2025 On November 10, 2025, Petitioner Harris, Pro Se, filed a "Reply to Parsons's Response to Harris's Petition For Review." Pursuant to Rule 23(f)(4) of the Arizona Rules of Civil Appellate Procedure, a petitioner may not file a reply to a petition for review unless the Supreme Court enters an order specifically authorizing it. This Court has not entered such an order here. Thus, Petitioner's reply brief is an unauthorized filing. Accordingly,

IT IS ORDERED striking from the record Petitioner's "Reply to Parsons's Response to Harris's Petition For Review." (Hon. Kathryn H. King)
- 22-Nov-2025 FILED: Motion to Recuse Justice Kathryn King; Certificate of Service; (Duplicate) Motion to Recuse Justice Kathryn King (Appellant Harris, Pro Se)

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CV-25-0279-PR CV250279 CV 25 0279 CV-25-0279

Information presented in this document may not reflect all case activity and is subject to change without notice.

Arizona Supreme Court
Civil Petition for Review - Appeal

CV-25-0279-PR

PARSONS et al v HARRIS

11 PROCEEDING ENTRIES

9. 23-Nov-2025 FILED: Motion to Vacate Order Striking Reply and Reinstate Reply; (Duplicate) Motion to Vacate Order Striking Reply and Reinstate Reply (Appellant Harris, Pro Se)
10. 10-Jan-2026 FILED: Motion for Ruling and Motion to Withdraw Petition for Review; (Duplicate) Motion for Ruling and Motion to Withdraw Petition for Review (Appellant Harris, Pro Se)
11. 16-Jan-2026 The Court has received Petitioner's Motion for Ruling and Motion to Withdraw Petition for Review. This is Petitioner's third motion since he filed his petition for review in October 2025. In his petition for review, Petitioner has challenged proceedings below in which he was designated a vexatious litigant and permanently enjoined from defaming Respondents.
- In his motion, Petitioner requests that the Court rule on other pending motions, including his Motion to Recuse Justice Kathryn King and Motion to Vacate Order Striking Reply and Reinstate Reply. Alternatively, Petitioner asks that the Court "withdraw" the petition for review, thereby mooting all other requests for relief. Petitioner argues that the Court "can take it's [sic] pick" to decide his alternative requests, and he acknowledges that withdrawal of his petition for review will moot his other requests for relief. Having considered the matter,
- IT IS ORDERED granting Petitioner's request to withdraw his petition for review.
- IT IS FURTHER ORDERED dismissing this matter (CV-25-0279-PR).
- IT IS FURTHER ORDERED denying as moot all other requests for relief, including Petitioner's Motion to Recuse Justice Kathryn King, Motion to Vacate Order Striking Reply and Reinstate Reply, and request for rulings on the same. (Hon. John R Lopez IV)

{191900}

CV-25-0279-PR CV250279 CV 25 0279 CV-25-0279

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