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7 *Attorneys for Defendants*
8 *Tom Crosby, Ann English, and Peggy Judd,*
9 *In their official capacities as the Cochise County Board of Supervisors*

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IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF COCHISE

ARIZONA ALLIANCE OF RETIRED
AMERICANS, INC. and STEPHANIE
STEPHENSON,

Plaintiffs,

v.

TOM CROSBY, ANN ENGLISH, and
PEGGY JUDD, in their official capacities
as the Cochise County Board of
Supervisors

Defendants.

Case No.: CV 202200552

**COCHISE COUNTY DEFENDANTS’
MOTION TO QUASH SERVICE OF
PLAINTIFF’S APPLICATION FOR ORDER
TO SHOW CAUSE; MEMORANDUM; AND
[PROPOSED] ORDER ISO**

Date: 12/01/2022
Time: 1:00 PM

MOTION

Pursuant to Rule 4 of Arizona Rules of Procedure for Special Actions (“Ariz. R. P. Spe. Act.”) and Rule 8(b) of Arizona Local Rules of Practice for Superior Court of Cochise County (“L. R. Prac. Sup. Ct.”), Defendant TOM CROSBY, ANN ENGLISH, and PEGGY JUDD, in their official capacities as the Cochise County Board of Supervisors (collectively “Defendants”) move to quash Plaintiff ARIZONA ALLIANCE OF RETIRED AMERICANS, INC. and STEPHANIE STEPHENSON (collectively “Plaintiffs”) Application for Order to show cause on the grounds that service of process of said Order was not effected on Defendants.

MEMORANDUM

Statement of Facts

1 On November 28, 2022, Plaintiffs filed an Application for an Order to Show Cause based
2 upon the Plaintiffs Verified Special Action Complaint. Defendants were made aware of Plaintiff's
3 filings and called an emergency meeting to select an attorney. Defendants without having an
4 opportunity to speak to voted attorney Brian Blym to represent them in the case sub judice.
5 Defendants voted unanimously to hire Bryan Blehm. On November 30, defendants were made
6 aware of the Order to show cause hearing date at the above date and time.

7 Daniel J McCauley III, appears specially for Defendants to challenge the service of said
8 Order to show cause on the grounds that service of process of the Order on Defendants was not
9 effected. At no time did Defendants waive service of process of the Order to Show cause.

10 Legal Standard

11 The court in *Richards v. Superior Court of Yavapai*, 22 Ariz. App. 66 (Ariz. Ct. App.
12 1974) outlined that an order denying a motion to quash "[i]s not appealable, *Herzog v. Reinhardt*,
13 2 Ariz. App. 103, 406 P.2d 738 (1965), and the relief sought is based on a claim that the trial court
14 exceeded its jurisdiction or abused its discretion, review by special action is appropriate."

15 Rule 4 of Arizona Rules of Procedure for Special Actions states:

16 The summons and complaint and Order to show cause, if any, shall be served as process is
17 served under Rules 4, 4.1 or 4.2, as applicable, of the Rules of Civil Procedure, unless the court
18 otherwise specifies the manner and time within which service shall be made.

19 Ariz. R. P. Spe. Act. 4

20 Rule 8 - Order to Show Cause Hearing and Procedure states:

21 (a) An order to show cause hearing on the law and motion calendar shall be limited to
22 fifteen minutes, to be shared equally by the opposing parties. If a party anticipates the hearing
23 will require more than the allotted time, he shall inform the court or clerk so that the matter may
24 be scheduled for hearing at another time.

25 (b) Where service of process was not effected, the Order to show cause shall not be
26 continued or rescheduled, but shall be quashed, unless all parties agree to proceed with the
27 hearing or to continue it to a date and time certain.

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L. R. Prac. Sup. Ct. 8

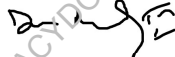
Argument

In the case *sub judice*, Plaintiff failed to cause service of the Order to Show Cause on Defendants in accordance with Ariz. R. P. Spe. Act. 4 and L. R. Prac. Sup. Ct. 8. At no time did Defendants wave their right to service. THEREFORE pursuant L. R. Prac. Sup. Ct. 8 (b) where service of process was not effected, the Order to show cause shall not be continued or rescheduled, but shall be quashed.

Conclusion

Based on the authority Ariz. R. P. Spe. Act. 4 and L. R. Prac. Sup. Ct. 8 and the foregoing facts showing service of process of the Order to show cause not effected on Defendants, the court should grant Defendant’s motion to quash service of said Order.

Dated: December 1, 2022



Daniel J McCauley III,
Attorney for Defendants

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10 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
11 IN AND FOR THE COUNTY OF COCHISE

12 ARIZONA ALLIANCE OF RETIRED
13 AMERICANS, INC. and STEPHANIE
14 STEPHENSON,

15 Plaintiffs,

16 v.

17 TOM CROSBY, ANN ENGLISH, and
18 PEGGY JUDD, in their official capacities
19 as the Cochise County Board of
20 Supervisors

21 Defendants.

Case No.: CV202200552

[PROPOSED] ORDER

22 The written motion of the Defendant for Defendants Tom Crosby, Ann English, and
23 Peggy Judd, In their official capacities as the Cochise County Board of Supervisors to quash
24 service of Plaintiff Arizona Alliance of Retired Americans, Inc. and Stephanie Stephenson Order
25 to show cause, in the above-entitled matter, have been duly presented and filed, it is established,
26 as provided in L. R. Prac. Sup. Ct. 8 (b) Where service of process was not effected, the Order to
27 show cause shall not be continued or rescheduled, but shall be quashed.

28 **THEREFORE IT IS HEREBY ORDERED** that Defendant's motion to quash service of
the Order to show cause is granted.

IT IS SO ORDERED.

Dated: _____

Judge of the Superior Court

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PROOF OF SERVICE

I, Daniel J McCauley III, am over the age of 18 and not a party to this action.
I am a resident of or employed in the county where the electronic service occurred; my
business/residence address is: 6638 E Ashler Hills Dr Cave Creek, AZ 85331-6638

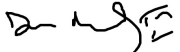
On the date below, I filed a true and correct copy of the original of the attached
documents with the Clerk of the Superior Court in Cochise County. I served the foregoing
document(s) to the fax number below described as:

**COCHISE COUNTY DEFENDANTS' MOTION TO QUASH SERVICE OF
PLAINTIFF'S APPLICATION FOR ORDER TO SHOW CAUSE; MEMORANDUM;
DECLARATION & [PROPOSED] ORDER ISO**

The following party was served:
Herrera Arellano LLP and Ellias Law Group LLP
Attorneys for Plaintiffs
Fax: (202) 968-4498

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

Dated: December 1, 2022



Daniel J McCauley III,
Attorney for Defendants