**WOODNICK LAW, PLLC** 1 1747 E. Morten Avenue, Suite 205 Phoenix, Arizona 85020 2 Telephone: Facsimile: 3 4 Gregg R. Woodnick, Kaci Y. Bowman,

Attorney for Defendant

## IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

## IN AND FOR THE COUNTY OF MARICOPA

In Re the Matter of: Plaintiff, v. GREGORY GILLESPIE, Defendant.

Case No.: CV2021-052893

## **RESPONSE TO PLAINTIFF'S** MOTION TO MODIFY DATE OF SERVICE

(Assigned to the Hon. Alison Bachus)

Defendant GREGORY GILLESPIE, by and through undersigned counsel, hereby responds and objects to Plaintiff's Motion to Modify Date of Service. This Response is supported by the following:

- 1. Plaintiff misunderstands the duty of undersigned counsel and this Court with respect to educating Plaintiff about the Arizona Rules of Civil Procedure and only serves to highlight why the matter must be dismissed pursuant to the pending Rule 12(b)(6) Motion.
- 2. As a pro per litigant, Plaintiff is "entitled to no more consideration than if [she] had been represented by counsel." Smith v. Rabb, 95 Ariz. 49, 53 (1963); see also Rule 11(b), Arizona Rules of Civil Procedure.

5

7

8

9

10 11

12

13

14

15

16 17

18 19

20

21 22

23

24 25

26

27 28

- 3. Plaintiff misunderstands the Default process. Even if (arguendo) Plaintiff's Application for Entry of Default had been granted (it was denied on October 7, 2021), Defendant would have ten (10) days to file a response pursuant to Rule 55(a)(5), Arizona Rules of Civil Procedure. Either way, Defendant's September 24 Motion to Dismiss was timely.
- 4. Plaintiff seems to think that initiating the Default process would allow her to circumvent her burden to prove the facts in her Complaint (facts which are contrary to law and predicated on fraud, as outlined in Defendant's September 24 Motion to Dismiss and October 6 Response to Plaintiff's Motion to Seal Court Records).
- 5. Plaintiff's relentless allegations are now aimed at undersigned's paralegal. To be clear, Defendant prepared an Acceptance of Service and filed the same with the Court on August 23, 2021. That was timely. Inadvertently, the Acceptance of Service indicated Coconino County. As soon as Defendant was notified of the administrative error, Defendant filed a proper Acceptance of Service (Maricopa) on the August 27, 2021.

WHEREFORE, Defendant hereby respectfully requests the following:

- A. That this Court <u>deny</u> Plaintiff's Motion to Modify Date of Service as there is no legal cause;
- B. That this Court grant such other and further relief as deemed appropriate.

**RESPECTFULLY SUBMITTED** this 22<sup>nd</sup> day of October 2021.

WOODNICK LAW, PLLC

Gregg R. Woodnick

Kaci Y. Bowman

Attorneys for Defendant

- 1	l .
1	ORIGINAL of the foregoing e-filed
2	This 22nd day of October 2021, with:
3	Clerk of Court
4	Maricopa County Superior Court
5	
6	<b>COPY</b> of the foregoing document e-mailed the same day to:
7	
8	Honorable Alison Bachus Maricopa County Superior Court
9	whareopa county superior court
10	
11	
12	Plaintiff Pro Per
13	
14	By: <u>/s/Sara Seeburg</u>
15	
16	
17	
18	
19	
20	
21	
22	
23	
24	
25	
26	
27	
28	