LAW OFFICES
PHELPS & MOORE
PROFESSIONAL LIMITED LIABILITY COMPANY
4045 EAST UNION HILLS DRIVE
SUITE A-102
PHOENIX, ARIZONA 85050
(602) 788-2089
Jon L. Phelps (027152)
jon@phelpsandmoore.com
Shannon A. Lindner (026688)
shannon@phelpsandmoore.com
Counsel for Plaintiff Norman Zwicky

EDWARD L. BARRY
ATTORNEY AT LAW
2120 COMPANY STREET
THIRD FLOOR
CHRISTIANSTED, VIRGIN ISLANDS 00820
(340) 719-0601
Edward L. Barry (005856)
ed@AttorneyEdBarry.com
Co-Counsel for Plaintiff Norman Zwicky

THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF MARICOPA

NORMAN ZWICKY,

Plaintiff,

vs.

PREMIERE VACATION COLLECTION OWNERS ASSOCIATION, f.k.a. Premiere Vacation Club, an Arizona nonprofit corporation,

Defendant.

CASE NO. CV2015-051911

PLAINTIFF'S RESPONSE TO DEFENDANT'S MOTION RE SUPERSEDEAS BOND AND STAY OF JUDGMENT PENDING APPEAL

(ASSIGNED TO HON. JOHN HANNAH)

Plaintiff, Norman Zwicky ("Zwicky"), by and through undersigned counsel, hereby responds to Defendant, Premiere Vacation Collection Owners Association's ("PVCOA" or "Association") Motion to Set Amount of Supersedeas Bond at $0 and Stay Enforcement or

Execution of Judgment Pending Appeal.

Zwicky opposes any stay of the Court's September 14, 2016 Order, whether issued pursuant to Arizona Revised Statute §12-2108, Rule 7 of the Arizona Rules of Appellate Procedure, or Arizona Rules of Civil Procedure 62(c). The grounds for appeal are insubstantial and any stay would merely forestall the inevitable. A stay would frustrate—or at least inordinately delay—the achievement of Plaintiff's essential purpose in these proceedings, which was to conduct due diligence as a prelude to possible class action litigation. Moreover, the Association has made no compelling demonstration of irreparable harm caused by any aspect of the relief ordered by the Court.

I. Supersedeas Bond

In the appeal, the Defendant-Association challenges the Court's ruling that permits Zwicky to disclose, for limited purposes, the contents of documents obtained for inspection. The Association wants the prior blanket prohibition of the disclosure, in effect prior to entry of the final judgment, to remain in place pending the appeal. The Association also seeks to stay the order affirmatively requiring the Association to issue a prescribed Notice to Association members. No monetary damages were awarded. The Court ordered purely injunctive relief.

The purpose of a supersedeas bond is to preserve the status quo and protect the interests of the appellee pending appeal. *Bobrow v. Herrod*, 239 Ariz. 180, ¶ 13, 367 P.3d 84, 87 (App. 2016); *Hunt v. Super. Ct. in and for Maricopa Cty.*, 21 Ariz. App 96, 97, 515 P.2d 1194, 1195 (1973).[1] The bond amount is calculated based on the damages awarded and the procedure outlined in Rule 7 of the Arizona Civil Rules of Appellate Procedure.

[1] The Court of Appeals in *Hunt* directed the trial court to determine a supersedeas bond as an adjunct to a stay pending appeal of ruling changing custody of a child, *unless* the trial court upon remand found that it would be "detrimental to the health or well-being of the child to remain in the custody of the petitioner pending the disposition of the appeal." 21 Ariz. App. at 98, 515 P.2d at 1196.

Ariz. R. Civ. App. P. 7(a)(4). However, the Court, before reaching the issue of a supersedeas bond, must first determine whether issuing any stay pending at all should be issued. That is a separate, threshold question.

The Arizona Court of Appeals has declined to decide whether A.R.S. § 12-2108 and Appellate Rule 7 apply only to money judgments. *Wells Fargo Bank N.A. v. Rogers*, 239 Ariz. 106, ¶ 10, 366 P.3d 583, 585 (App. 2016). However, under Rule 62 of the Arizona Rules of Civil Procedure and Appellate Rule 7(a)(2), the issuance of a stay of injunctive relief pending appeal upon posting a supersedeas bond is discretionary and not mandatory.

Civil Procedure Rule 62(a) provides: "Unless otherwise ordered by the court, an interlocutory or final judgment in an action for an injunction ... shall not be stayed ... during the pendency of an appeal. The provisions of subdivision (c) of this Rule govern the suspending, modifying, restoring, or granting of an injunction during the pendency of an appeal." Ariz. R. Civ. P. 62(a). Rule 62(c) in turn provides: "When an appeal is taken from ... [a] judgment granting, dissolving, or denying an injunction, the court in its discretion may suspend, modify, restore, or grant an injunction during the pendency of the appeal upon such terms as to bond or otherwise as it considers proper for the security of the rights of the adverse party." Ariz. R. Civ. P. 62(c). Defendant has cited no contravening statute or rule in Arizona that makes a stay automatic or mandatory in injunctive relief cases upon posting a supersedeas bond and Plaintiff's research revealed none (except in the landlord-tenant and related contexts). *See* A.R.S. § 12-2108(A) (setting criteria for amounts of stays of execution on money judgments); *cf., Grady v. Barth ex rel. Cty. of Maricopa,* 233 Ariz. 318, 322, 312 P.3d 117, 121 (App. 2013) ("[W]e construe A.R.S. § 12–1182(B) as requiring the Superior Court to stay execution of [a forcible entry and detainer] judgment pending appeal when the party in possession posts a bond....").

Federal cases applying the corresponding Federal Rule 62 in injunctive relief cases are in full accord. *E.g., Lair v. Bullock*, 697 F.3d 1200, 1203 (9th Cir. 2012) ("A stay is not

a matter of right.... It is instead 'an exercise of judicial discretion' ... [that] 'is dependent upon the circumstances of the particular case.'") (quoting *Nken v. Holder*, 556 U.S. 418, 433, 129 S. Ct. 1749, 1760, 173 L. Ed. 2d 550 (2009)); *Nken,* 556 U.S. at 428, 129 S. Ct. at 1757–58 (finding that a stay "is not a matter of right, even if irreparable injury might otherwise result to the appellant."), *Sentry Ins. v. Pearl*, 662 F.Supp 1171, 1172-73 (D.C. Penn. 1987) (holding that "an order granting a stay pending arbitration is injunctive in nature" and therefore the adverse party is not entitled to a stay as a matter of right even upon the posting of a supersedeas bond).

In this case, the Court did not award monetary damages in its September 14, 2016 ruling, but rather modified its previous injunctive order. Therefore, the amount of the supersedeas bond would be $0. Plaintiff does not demand a supersedeas bond (and waives the requirement or consents to any nominal amount if the Court disagrees with Plaintiff and elects to issue a stay), nor is it legally required. The issue before the Court is not whether a *bond* is appropriate; the issue is whether a *stay* is appropriate.

II. Discretionary Standard for Stay Pending Appeal

The Supreme Court of Arizona not only established a discretionary standard for issuing a stay under Rule 62(c) but set forth a comprehensive and definitive standard in *Smith v. Arizona Citizens Clean Elections Commission.* A party seeking to stay a judgment on appeal must establish: "(1) a strong likelihood of success on the merits; (2) irreparable harm if the stay is not granted; (3) that the harm to the requesting party outweighs the harm to the party opposing the stay; and (4) that public policy favors the granting of the stay." *Smith v. Ariz. Citizens Clean Elections Comm'n*, 212 Ariz. 407, 410, ¶10, 132 P.3d 1187, 1190 (2006).

These factors are not to be applied in a checklist, mechanical fashion, but on a sliding scale, in which the moving party must prove either "1) probable success on the merits and the possibility of irreparable injury; or 2) the presence of serious questions and that the

balance of hardships tips sharply in favor of the moving party." *Id.* (citations omitted). "The greater and less reparable the harm, the less the showing of a strong likelihood of success on the merits need be. Conversely, if the likelihood of success on the merits is weak, the showing of irreparable harm must be stronger." *Id.* The determination of the existence of a serious question requires an analysis of whether there is a serious question "*going to the merits,*" *Ariz. Ass'n of Providers for Persons with Disabilities v. State*, 223 Ariz. 6, 12, ¶ 13, 219 P.3d 216, 222 (App. 2009) (*emphasis provided by Court*) (quoting *Luckette v. Lewis*, 883 F.Supp. 471, 474 (D.Ariz. 1995), and focuses upon "the strength of the legal claim." *Id.*, citing *Sports Form, Inc. v. United Press Int'l, Inc.*, 686 F.2d 750, 754 (9th Cir.1982).

Federal courts have similarly imported preliminary injunction standards in deciding motions for stays, and have widely accepted the sliding scale test.[2] E.g., *Chan v. Wodnicki*, 67 F.3d 137, 139 (7th Cir. 1995) (Posner, J.) (stating that a stay is the "appellate analogue" of preliminary injunction); *Humane Soc'y of U.S. v. Gutierrez,* 523 F.3d 990, 991 (9th Cir. 2008) (recognizing a sliding scale "in which the required degree of irreparable harm increases as the probability of success decreases.").

A stay is an extraordinary equitable remedy, *Cuomo v. U.S. Nuclear Regulatory Comm'n*, 772 F.2d 972, 978 (D.C.Cir.1985); *Shays v. Fed. Election Comm'n*, 340 F. Supp. 2d 39, 41 (D.D.C. 2004) (holding applicant for stay must "meet the stringent standards required to justify the extraordinary remedy of a stay pending appeal"), and should not be reflexively granted. The United States Supreme Court stated in *Nken v. Holder* that a stay is not a matter of right, even in light of irreparable injury because the parties and the public are "entitled to the prompt execution of orders." 556 U.S. at 428, 129 S. Ct. at 1757–58.

There is also a basic difference between a preliminary injunction and a stay of an

---

[2] "Because the Arizona rule [Rule 62(c)] came from the federal rule, [federal court] interpretations are useful in determining the scope of the rule." *State ex rel. Corbin v. Tolleson*, 152 Ariz. 376, 379, 732 P.2d 1114, 1117 (App. 1986).

order granting permanent injunctive relief or other final judgment. In the preliminary injunction setting, a court must typically decide a question in a short time on a limited record; its ruling is by definition tentative, before a trial on the merits. *See Univ. of Texas v. Camenisch,* 451 U.S. 390, 394-96, 101 S. Ct. 1830, 1834, 68 L. Ed. 2d 175 (1981) (acknowledging that a party "is not required to prove his case in full at a preliminary-injunction hearing). By contrast, a party seeking a stay of permanent equitable relief (as the Association does here) has had a full and fair opportunity to litigate the merits with the benefit of a complete evidentiary record. *See Fullmer v. Mich. Dep't of State Police*, 207 F.Supp.2d 663, 664 (E.D.Mich.2002) (movant seeking stay under Rule 62(c) in different "procedural posture" from one seeking preliminary injunction; party seeking a stay must ordinarily demonstrate to a reviewing court that there is a likelihood of reversal, not merely the possibility of success on the merits); *Dayton Christian Sch. v. Ohio Civil Rights Comm'n,* 604 F. Supp. 101, 103 (S.D. Ohio 1984) (acknowledging "that a court will seldom deny an injunction, then turn around and grant one pending appeal").

In this case, the parties have already exhaustively litigated the merits of Zwicky's right to inspect the Defendant's financial records and the necessity of Defendant-Association to notify its members of the inspection action. Zwicky established beyond all serious question that the annual assessments and dues charged by the Association for vacation rights had become so exorbitant—so dramatically and unexpectedly high—that his timeshare investment of $26,000 has become absolutely worthless. His current cost of an annual 10-day vacation at a Diamond International resort, if annual charges are added to his initial investment cost amortized over 7 years, exceed $600 per night's stay. Zwicky further convincingly showed that the economic benefits of this timeshare scheme had been rendered illusory—he bought a "certificate" of ownership in "the blue sky in fee simple." Moreover, Zwicky is on a financial treadmill to oblivion, facing out-of-control annual financial liabilities unilaterally imposed by a nonprofit Association dominated by a NYSE

corporation.

Zwicky wanted to know how and why his annual charges skyrocketed. Specifically, he sought through this inspection action to determine whether his annual assessments were imposed in accordance with fiduciary principles of honesty, fair dealing and commercial reasonableness by the developer-controlled Board, or whether they were unlawfully inflated. He got his answer.[3]

Based on the foregoing, Defendant-Association's burden is higher. More than a showing of a possibility of success, Defendant must show this Court's judgment is likely to be reversed. A trial court, when attempting an objective assessment of the prospects for reversal for purposes of evaluating a motion for stay pending appeal, should consider the standard of review the appellate court will impose. *E.g., Hayes v. City Univ. of N.Y.*, 503 F. Supp. 946, 963 (S.D.N.Y. 1980), *aff'd* 648 F.2d 110 (2d Cir. 1981).

A. Success on the Merits

Confidentiality-disclosure rulings, remedial in nature, will be reviewed on appeal for an abuse of discretion. *Gries v. Plaza Del Rio Mgmt. Corp.*, 236 Ariz. 8, 12, ¶ 15, 335 P.3d 530, 534 (App. 2014) (grant of equitable relief reviewed for abuse of discretion); and *id.* ("A discretionary decision involves assessing 'conflicting procedural, factual or equitable considerations which vary from case to case and which can be better determined or resolved by the trial judge.'") (quoting *City of Phoenix v. Geyler*, 144 Ariz. 323, 329, 697 P.2d 1073, 1079 (1985); *Scholten v. Blackhawk Partners*, 184 Ariz. 326, 331, 909 P.2d 393, 398 (App. 1995) ("An injunction is an equitable remedy. . . [and t]he discretion in injunctive

[3] The Association argues, inappropriately: "Mr. Zwicky has not alleged that PVCOA has engaged in any wrongdoing or financial mismanagement, and indeed, there is no basis for any such allegations." Motion for stay, p. 2-3. The purpose of this lawsuit was to *investigate* those issues, not to *decide* them. However, as undersigned counsel have advised the Court, there appears to be substantial evidence of significant hidden overcharges in the annual assessments.

proceedings lies with the trial court, not the reviewing court."); *Fin. Associates, Inc. v. Hub Properties, Inc.*, 143 Ariz. 543, 545, 694 P.2d 831, 833 (App. 1984) (noting that "[t]he scope of review on appeal of an order granting or denying an injunction is limited to the consideration of whether a clear abuse of judicial discretion has been shown."); *Berry v. Foster*, 180 Ariz. 233, 235, 883 P.2d 470, 472 (App. 1994) (stating that "[t]he granting of [an] injunction is a matter of judicial discretion, which we . . . review[ ] for abuse."); *see also H.D.V.-Greektown, LLC v. City of Detroit,* 568 F.3d 609, 619 (6th Cir. 2009) (holding that "[the] ultimate decision regarding injunctive relief is reviewed under the 'highly deferential' abuse-of-discretion standard.").

The Defendant-Appellant herein has identified no issue of law underpinning the Court's exercise of discretion that would be reviewed *de novo* and likely reversed.[4] Defendant's belated "trade secrets" contentions and supporting affidavit in its Motion are nothing more than a misguided motion for reconsideration, offering no evidence or arguments that could not reasonably have been brought previously to the attention of the Court. These new arguments will likely also be rejected by the Court of Appeals as an impermissible "do-over"—a second bite at the apple—as the Court of Appeals does "not consider arguments raised for the first time on appeal except under exceptional circumstances." *In re MH 2008-002659*, 224 Ariz. 25, 27, ¶ 9, 226 P.3d 394, 396 (App. 2010).

This Court, agreeing with the overwhelming weight of authority, also determined that Zwicky's purpose in inspecting the books with possible future litigation in mind was a "proper purpose." Defendant never—even in the present Motion—adduced any contrary legal authority. It seems extremely unlikely that an appellate court would disagree with this

---

[4] A grant of summary judgment will be reviewed *de novo*; however, the underlying denial of the injunction will be reviewed for an abuse of discretion. *See Berry*, 180 Ariz. at 235, 883 P.2d at 472; *Andrews v. Blake*, 205 Ariz. 236, 240, ¶ 12, 69 P.3d 7, 11 (2003).

Court's ruling on this core, outcome-determinative, issue of law. To do so would involve repudiation of basic principles established in 50 year-old Arizona precedent. *Tucson Gas & Elec. Co. v. Schantz*, 5 Ariz. App. 511, 513-14, 428 P.2d 686, 688-89 (1967) (acknowledging that "the right of a stockholder extends to all books, papers, contracts, minutes or other instruments from which he can derive any information that will enable him to protect his interest.").

These same essential points weigh strongly against a stay pending appeal of the Court's ruling requiring Defendants to send notice of this inspection action to members of the Association. Once again, the Court, exercising its discretion, narrowly tailored this equitable relief to carefully balance the interests of the parties. The Association, in asking the Court to stay this part of the order, does not offer any specific legal authority tending to show that the Court was legally wrong. Accordingly, Defendant-Association is unlikely to prevail on appeal and the motion for a stay should be denied.

B. Irreparable Harm

Defendant's trade secret arguments are also unpersuasive. They do not demonstrate irreparable harm to a legally cognizable interest. The "secrets" in question are alleged to consist of fraudulent business practices of a *nonprofit association kept secret from its own members*. Defendant's Board (developer-controlled) and property manager (developer-controlled) served the Association and its thousands of members in a *fiduciary capacity*. *See* A.R.S. § 33-2203(B) ("The managing entity [of a timeshare entity] shall act in the capacity of a fiduciary to the owners of timeshare interests in the timeshare plan."); *accord,* Restatement (Third) of Property (Servitudes) § 6.13(1)(d) (2000) ("In addition to duties imposed by statute and the governing documents, the association has the following duties to the members of the common-interest community: ... to provide members reasonable access to information about the association, the common property, and the financial affairs of the association."). Therefore, this Court should deny Defendant-Association's motion.

The Association has also not identified any actual harm—let alone legally-cognizable, *irreparable* harm—that would flow from notifying Zwicky's fellow members of the mere existence of the inspection action or disclosure of the documents inspected. The required Notice is phrased in completely neutral, non-pejorative terms. These owners have a right to know. Moreover, the order, which requires *direct communication* only between the Association and its members, represents a good faith accommodation of timeshare owners' privacy rights recognized in A.R.S. §33-2210(D),[5] and balances and reconciles all of the competing interests in play.

C. Balance of Hardships

Where, as here, a reversal on the merits appears to be a long-shot, an applicant for a stay must show that the balance of hardships "tips sharply" in its favor." *Smith,* 212 Ariz. at 411, ¶ 10, 132 P.3d at 1191. The Association has not done so. It has not shown that the prejudice to its purported confidentiality interests—which are tenuous at best because they are irreconcilable with its fiduciary disclosure duties—justifies perhaps years of delay in Plaintiff's ordinary use in litigation the evidence that this inspection action has brought to light. Plaintiff, moreover, has shown his "right to know" clearly outweighs the Association's claim of secrecy. This Court already carefully considered, and carefully balanced, those competing interests.

---

[5] That statute is in clear derogation of common law inspection rights (and the corporate shareholder list inspection statutes) which allows examination of ownership lists for the important purpose of facilitating communication and cooperation between shareholders/members in order to join forces and collectively pursue their common interests. *Durnin v. Allentown Fed. Sav. & Loan Ass'n*, 218 F. Supp. 716, 718 (E.D. Pa. 1963) ("The right to examine the stockholders list is a basic privilege of every stockholder of a corporation and should be given the widest recognition as fundamental to corporate democracy."). It is entirely unclear why timeshare owner lists should be concealed from fellow owners when shareholder lists are openly available, although it certainly *is* clear why a *timeshare developer* would want it that way.

This Court has indeed at all times exercised its discretion in a thoughtful, precisely-tailored manner that sought a fair balance between any legitimate confidentiality interests of the Association and Zwicky's right to inspect, and right to meaningfully utilize, the Association's business records relating to the calculation of his annual assessments. At the outset of the case, Zwicky's counsel *consented* to a temporary and provisional confidentiality order, representing to the Court and to opposing counsel that if the records obtained in this inspection action did not appear to support any claim of managerial misfeasance or malfeasance, they would be disclosed no further. *Ruling,* May 6, 2016.[6] Only after the records were examined, and after counsel advised the Court and opposing counsel that they *do* appear to reveal actionable wrongdoing, did the Court grant Plaintiff relief from the confidentiality order. Even then, the Court did not rescind the order but rather modified it. The Court carefully limited Zwicky's scope and use of the disclosures to *legitimate litigation purposes*. The Court further continued to prohibit improper extraneous use of these materials, and preserved the subsequent trial court's prerogative to *independently* issue any appropriate protective orders upon motion. *Ruling*, August 19, 2016.[7]

---

[6] The Ruling of May 6th states:

> The Court is of the view that it may well be appropriate for the plaintiff to be permitted to disclose this information in other forums including other litigation, government agencies and so on but those matters are not before the Court now. There is no imperative for the Court to make that decision now. ... The basis for the Court's order today is the agreement of the parties and the plaintiff's current need for the information as opposed to any finding by the Court that any of this information is in fact entitled to be treated as confidential.

[7] The order of August 19th (reflected in the terms of the Final Judgment) states:

> IT IS ORDERED [that] the protective order set forth on the record on May 6, 2016 and memorialized in the minute entry of

D. Public Interest

Defendant's legal position throughout this case reflects an overall strategy of keeping thousands of individual timeshare owners in a state of ignorance and isolation. Claiming "trade secret" protections as a means of enshrouding the fiscal affairs of a nonprofit association of timeshare owners is fundamentally antithetical to the transparency and accountability that over 20,000 timeshare owners have a right to expect from their Association and its fiduciaries. Public policy must forbid using a confidentiality order to shield wrongdoing. E.g., Douglas G. Baird & Robert K. Rasmussen, Four (or Five) Easy Lessons from Enron, 55 Vand. L. Rev. 1787 (2002) (comparing Enron's frequent claims of "trade secret" to those of Charles Ponzi); 5A Fletcher Cyc. Corp. § 2213 ("Those in charge of the company may be guilty of gross incompetence or dishonesty for years and escape liability if the shareholders cannot inspect the records and obtain information.").

Public policy does not support the Association's litigation tactics of suppression, avoidance and delay. Consequently, Defendant-Association's motion should be denied.

III. Appellate Court's Independent Power to Issue Stay

Furthermore, the Association is not without a remedy should this Court deny a stay. Under Rule 7(c) of the Arizona Rules of Appellate Procedure, the Court of Appeals has the independent discretionary power to issue a stay if this Court declines to do so. Ariz. R. Civ. App. P. 7(c).

> that date is hereby modified to permit the plaintiff or his attorneys to quote or refer to the information produced in connection with this litigation in a complaint or other court filing in the proposed class action litigation. The protective order, as modified, shall remain in effect until 60 days after the proposed class action lawsuit is filed in the District Court, and shall then expire.

IV. Conclusion

Obviously, this Court would not have ruled as it did if it believed that there was a strong likelihood of reversal on appeal. There is indeed no "serious question" about the merits and no *objective* reason for this Court to believe that its holdings will fail to withstand appellate scrutiny. Zwicky has fought long and hard to vindicate his rights (this action was filed in May of 2015) and he should not be delayed for another year on the off-chance that an appellate court might reverse this Court.

The Court of Appeals will uphold this Court's ruling unless it can somehow justify Defendant's proposition that those in charge of a nonprofit association—representing the collective interests of 22,000 timeshare consumers—can circumvent their fiduciary disclosure duties by asserting ordinary trade secret protections stemming from their simultaneous, highly-conflicted relationships with a commercial enterprise.

For the foregoing reasons, the Association's Motion to Set Supersedeas Bond at $0 and Stay Enforcement or Execution of Judgment Pending Appeal should be denied.

RESPECTFULLY SUBMITTED this 21st day of November, 2016.

PHELPS & MOORE, PLC

By */s/ Jon L. Phelps*
Jon L. Phelps
4045 East Union Hills Drive
Suite A-102
Phoenix, Arizona 85050
Counsel for Plaintiff

-and-

/s/ Edward L. Barry
Edward L. Barry
2120 Company Street, Third Floor
Christiansted, VI 00820
Co-counsel for Plaintiff

ORIGINAL of the foregoing efiled on
this the 21st day of November, 2016;

COPY of the foregoing delivered via azturbocourt.gov

on this 21st day of November, 2016 to:

The Honorable John Hannah
Northeast Regional Center
18380 N. 40th Street
Phoenix, Arizona 85032

COPY of the foregoing delivered via email and U.S. mail
on this the 21st day of November, 2016 to:

John E. DeWulf
Katherine DeStefano
COPPERSMITH BROCKELMAN PLC
2800 North Central Avenue, Suite 1200
Phoenix, Arizona 85004
Counsel for Defendant

By */s/ Kelly Naddaff* _