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Attorneys for Plaintiff

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

JOHN CD DOE, a single man,

Plaintiff,

v.

BIG BROTHERS BIG SISTERS OF
AMERICA, a District of Columbia, non-
profit corporation; BIG BROTHERS BIG
SISTERS OF CENTRAL ARIZONA; an
Arizona corporation; JOHN DOE 1-100;
JANE DOE 1-100; and BLACK & WHITE
CORPORATIONS 1-100,

Defendants.

Case No.: CV2020-014920

**PLAINTIFF'S REPLY IN
SUPPORT OF HIS MOTION TO
AMEND COMPLAINT**

(Oral Argument Requested)

Plaintiff submits the following reply in support of his Motion to Amend Complaint. Plaintiff requests an order allowing Plaintiff to amend the Complaint as set forth in Exhibit 4 attached to Plaintiff's Motion.

There is no fixed time limit to filing a motion for leave to amend a pleading. Whether the proposed amendment will be permitted is within the discretion of the court. *Valley Farms, Ltd. v. Transcontinental Inc. Co.*, 206 Ariz. 349, 78 P.3d 1070 (App. 2003); *Bujanda v. Montgomery Ward & Co.*, 125 Ariz. 314, 374, 548 P.2d 1186 (App. 1976). *See* Ariz. R. Civ. P. 15(b), Amendments During and After Trial. Leave to amend should be construed liberally to allow trial on the merits against the proper parties.

1 In *Green Reservoir Flood Control Dist. V. Willmoth*, 15 Ariz. 406, 489 P.2d 69
2 (App. 1971), the Arizona Court of Appeals found that amending the complaint was
3 proper where the amended complaint refers to the same transaction or occurrence and
4 defendant was on notice. The court found

5 As long as the amended complaint refers to the same
6 transaction or occurrence, defendant being put on
7 notice by the first complaint, the amendment will be
8 allowed even though new defendants or new
9 theories are introduced. *Williams v. United States*,
10 405 F. 2d 234 (5th Cir. 1968). The complaint before
11 us arose out of the same operative facts. *See Baker*
12 *v. Walston & Company*, 7 Ariz.App. 590, 442 P.2d
13 148 (1968). Given the facts before us we believe
14 that appellant was given notice of the claim by the
15 first complaint.

16 *Green Reservoir Flood Control Dist. V. Willmoth*, 15 Ariz. 406, 489 P.2d 69 (App.
17 1971).

18 As in *Green*, the proposed amended complaint in this case refers to the same
19 transaction or occurrence. Although Plaintiff specifically identified his negligence
20 theory under a more clearly delineated sub-heading, the first complaint put Defendants
21 on notice that Plaintiff alleged Defendants were negligent in its acts and or omissions.
22 Because the proposed amended complaint arises out of the same operative facts,
23 Defendants have been put on notice and cannot show any prejudice.

24 Plaintiff requests an order allowing Plaintiff to file the proposed Second Amended
25 Complaint.

26 **DATED** this 20th day of August, 2025.

27 **MONTOYA, LUCERO & PASTOR, P.A.**

28 By /s/ Robert E. Pastor

Robert E. Pastor
Attorneys for Plaintiff

1 ORIGINAL of the foregoing e-filed
2 With the Maricopa County Clerk of Court.

3 And a COPY emailed this 20th day of August, 2025 to:

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By: /s/C. Wilhelm