

1 Julio M. Zapata (No. 020324)
2 **ZAPATA LAW PLLC**
3 2820 S. Alma School Rd., 18-141
4 Chandler, Arizona 85286
5 Telephone: (480) 272-9004
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7 Email: mylawyer@juliozapatalaw.com

8 Counsel for Plaintiff

9 SUPERIOR COURT OF ARIZONA

10 MARICOPA COUNTY

11 PABLO GONZALEZ RIOS,
12 individually,

13 Plaintiff,

14 vs.

15 MIREILLE DILTZ and JOHN DOE
16 DILTZ, wife and husband; ROBERT
17 DAVENPORT and JANE DOE
18 DAVENPORT, husband and wife;
19 MARICOPA COUNTY, a political
20 subdivision of the State of Arizona;
21 XYZ CORPORATIONS I-X, XYZ
22 PARTNERSHIPS I-X; and JOHN
23 DOES I-X and JANE DOES I-X,

24 Defendants.

No. CV2022-092696

**EXPEDITED JOINT REQUEST FOR
RULE 16 CONFERENCE, VACATE JURY
TRIAL AND ADDRESS DECLARATION
OF LONNELL COLBERT**

[Assigned to the Honorable Rodrick Coffey]

25 Pursuant to Rule 16, Arizona Rules of Civil Procedure, and Ethical Rule 3.3, the
26 above-captioned parties, through their undersigned counsel, respectfully ask the Court to
27 schedule a hearing for the purposes of vacating the two-day jury trial currently set for
28 August 15, 2023 at 8:30 a.m.

In addition, the parties request the Rule 16 conference to address what reasonable
remedial measures must be taken in light of the Declaration of Lonnell Colbert, attached
hereto as **Exhibit 1**.

Plaintiff's counsel avows to the Court that he has consulted with Mr. Pablo Rios

1 and obtained all necessary written consents regarding this matter and consulted with
2 defense counsel.

3 Dated this 24th day of July, 2023.

4 **MARICOPA COUNTY ATTORNEY** **ZAPATA LAW PLLC**

5
6 By /s/ Michael E. Gottfried
7 Michael E. Gottfried
8 Counsel for Maricopa County

By /s/ Julio M. Zapata
Julio M. Zapata
Co-counsel for Plaintiff

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1 ORIGINAL of the foregoing e-filed and e-lodged
2 With the Clerk of the Court this 24th day of July 2023:

3 Honorable Rodrick Coffey
4 Maricopa County Superior Court Judge
5 222 E. Javelina Avenue, Southeast Facility
6 Mesa, Arizona 85210

7 COPY of the foregoing e-served
8 this 24th day of July, 2023 to:

9 Michael E. Gottfried, Esq.
10 Jonathan C. Simon, Esq.
11 MARICOPA COUNTY ATTORNEY
12 225 West Madison Street
13 Phoenix, Arizona 85003
14 gottfrim@mcao.maricopa.gov
15 simonj@mcao.maricopa.gov
16 Attorneys for Maricopa County

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By /s/ Julio M. Zapata
Julio M. Zapata

EXHIBIT 1

1 Julio M. Zapata (No. 020324)
2 ZAPATA LAW PLLC
3 2820 S. Alma School Rd., 18-141
4 Chandler, Arizona 85286
5 Telephone: (480) 272-9004
6 Facsimile: (480) 907-1703
7 Email: mylawyer@juliozapatalaw.com

8 Counsel for Plaintiff

9 SUPERIOR COURT OF ARIZONA
10 MARICOPA COUNTY

11 PABLO GONZALEZ RIOS,
12 individually,
13 Plaintiff,

No. CV2022-092696

**DECLARATION OF LONNELL
COLBERT**

14 vs.

[Assigned to the Honorable Rodrick Coffey]

15 MIREILLE DILTZ and JOHN DOE
16 DILTZ, wife and husband; ROBERT
17 DAVENPORT and JANE DOE
18 DAVENPORT, husband and wife;
19 MARICOPA COUNTY, a political
subdivision of the State of Arizona;
XYZ CORPORATIONS I-X, XYZ
PARTNERSHIPS I-X; and JOHN
DOES I-X and JANE DOES I -X,
20 Defendants.

21 I, Lonnell Colbert, being duly sworn, upon his oath, states under penalty of perjury
22 that the following is true and correct to the best of my knowledge, information and belief:

23 1. I am over 18 years of age, am under no disability, am competent to and do
24 make this Declaration based upon my own personal knowledge, am fully familiar with the
25 facts and circumstances set forth below, and if called upon, I could and would testify
competently thereto.

26 2. I am a process server and operate under Affordable Process Service, L.L.C.
27 having an address of 2428 W. Hayduk Rd., Phoenix, Arizona 85041. (602) 820-2488.

28 3. On or about January 11, 2022, Gil Negrete contacted me to tell me that one

1 of his new employees missed a notice of claim deadline and wanted to know if I would
2 agree to create a certificate of delivery showing that the notice of claim was served on
3 Maricopa County on November 10, 2021.

4 4. The case that he was discussing was for Pablo Gonzales Rios.

5 5. Gil Negrete stated to me that he thought it would not be a big deal since I
6 frequently go to the County and serve documents. He stated that since I frequently go
7 there that nobody would be the wiser if I created a certificate of delivery showing that I
8 delivered a notice of claim to the Maricopa County Clerk of Board of Supervisors. Gil
9 told me that this would help him out and he expected to settle the case, but without the
10 certificate of delivery he would not be able to bring a claim against the County on behalf
11 of Mr. Rios.

12 6. On January 12, 2021, I received an email from the Law Offices of Gil
13 Negrete where Gil Negrete was copied which provided me with a copy of a Notice of
14 Claim dated November 10, 2021. *See Exhibit 1* (Notice of Claim dated November 10,
15 2021). The correspondence was asking me for the status of the certificate of delivery.

16 7. During the conversation I had with Gil Negrete, I agreed and created a
17 Certificate of Delivery, which is attached hereto as **Exhibit 2**, even though I had not
18 delivered a notice of claim on November 10, 2021 to Maricopa County.

19 8. On January 18, 2022, the Law Offices of Gil Negrete contacted me again
20 asking for the status of the certificate of delivery.

21 9. On January 24, 2022, I emailed the Law Offices of Gil Negrete and
22 provided a PDF copy of the Certificate of Delivery that Gil Negrete had requested, which
23 states on the Certificate of Delivery that on November 10, 2021 at 10:48 a.m. I hand
24 delivered a Notice of Claim to Dorene Stretar, Clerk of the Board Specialist for Maricopa
25 County Clerk of Board of Supervisors at 301 W. Jefferson St., 10th floor, Phoenix,
26 Arizona 85003, which I signed. *See Exhibit 2* (Certificate of Delivery).

27 10. On July 15, 2023, I was contacted by Julio Zapata who asked me to explain
28 the details underlying the Certificate of Delivery because the County was claiming that a


1 Notice of Claim was not delivered to them on November 10, 2021. A two-day jury trial
2 was scheduled to occur on August 15, 2023 regarding the notice of claim and certificate of
3 delivery issues.

4 11. I truthfully told Mr. Zapata that I had not delivered a Notice of Claim to the
5 County on November 10, 2021 or any other day, and that Gil Negrete had asked me to
6 create a false Certificate of Delivery, which I did, as discussed above.

7 Pursuant to Rule 80(c), Arizona Rules of Civil Procedure, I declare under penalty
8 of perjury under the laws of the State of Arizona that the foregoing is true and correct.

9 Dated this 16th day of July, 2023.

10 **LONNELL COLBERT**

11
12 By 
13 Lonnell Colbert

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EXHIBIT 1

LAW OFFICES OF
GIL NEGRETE, P.C.
A PROFESSIONAL CORPORATION

Gil Negrete, Esq.

OFFICE (602) 495-1005
1001 N. Central Avenue • Suite 660
Phoenix, Arizona 85004-1961
FAX (602) 253-4709

November 10, 2021

HAND-DELIVERY BY PROCESS SERVICE

Maricopa County Clerk of Board of Supervisors
301 W. Jefferson Street
Phoenix, AZ 85003

Re: Our Client: Pablo Gonzales Rios
Date of Accident: June 23, 2021

Dear Clerk:

This letter is written to comply with A.R.S §12-821, et seq., and also to comply with Rule 4.1, Arizona Rules of Civil Procedure. This is a claims letter submitted as a result of an automobile accident that occurred on June 23, 2021.

On June 23, 2021, at approximately 2:35 p.m., my client was traveling southbound on SR101 in the number 1 lane of traffic in Tempe, Arizona. At the same time and place your employee was heading southbound on SR101 and failed to stop in time for traffic causing a six-car collision. My client was going with the flow of traffic when he saw something to his right side coming towards him and he was struck on the passenger side of his vehicle and sent spinning into the wall of the freeway. My client sustained injuries as a result of the collision. Due to his injuries, my client received medical treatment and has incurred medical expenses (*See* attached medical records and bills).

Your employee was negligent in failing to control his vehicle to avoid a collision and should have been cited for violation of A.R.S. § 28-701A, which states as follows:

A person shall not drive a vehicle on a highway at a speed greater than is reasonable and prudent under the circumstances, conditions and actual and potential hazards then existing. A person shall control the speed of a vehicle as necessary to avoid colliding with any object, person, vehicle or other conveyance on, entering or adjacent to the highway in compliance with legal requirements and the duty of all persons to exercise reasonable care for the protection of others.

Violations of this statute constitutes negligence per se and we shall request an appropriate jury instruction if we are forced to trial. *Orlando v. Northcutt*, 103 Ariz. 298, 441 P.2d 58 (1968). Your employee was negligent in failing to control her vehicle to avoid a collision. Your employee's negligence was the actual and proximate cause of the collision and my client's injuries.

Mireille Diltz was negligent in failing to control her vehicle to avoid a collision and was cited for violation of A.R.S. §28-701A a violation of this statute constitutes negligence per se and we will request a jury instruction accordingly. As a result of Mireille's negligence, my client suffered various injuries and incurred medical expenses. Mireille's negligent conduct was the actual and proximate cause of my client's

injuries.

At the time of the accident, Mireille Diltz was working within the course and scope of her employment with Maricopa County. As such, Mireille's negligent conduct/actions are imputable to the County of Maricopa under the doctrine of Respondeat Superior.

We are prepared to file a complaint on behalf of our client, upon the expiration of sixty (60) days, as mandated by A.R.S. §12-821.01. If the Maricopa County is interested in resolving this claim short of litigation, our client has authorized us to accept the following amounts as settlement for their general and special damages, including pain and suffering, loss of enjoyment of life, in the amount listed below:

Pablo Rios	\$500,000.00
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These offers shall be valid for a period of Sixty (60) days upon receipt, after this time period our settlement offer is deemed withdrawn. My Federal Tax ID# is 26-4442971. We look forward to your prompt response.

Sincerely,

LAW OFFICES OF
GIL NEGRETE, P.C.



Gil Negrete, Esq.
Attorney at Law

EXHIBIT 2

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Affordable Process Service L.L.C.
2428 W Hayduk Rd
Phoenix, AZ 85041
602-820-2488

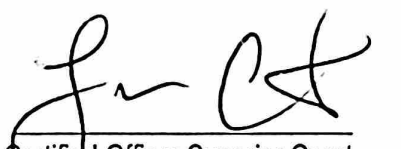
In Re the Matter of:

PABLO GONZALES RIOS)
)
)
Plaintiff,)
)
Vs.)
)
MARICOPA COUNTY CLERK OF BOARD OF)
SUPERVISORS)
)
Defendants,

CERTIFICATE OF DELIVERY

I, Lonnell Colbert do depose that on said date November 10, 2021 at 10:48 AM, I hand delivered a **NOTICE OF CLAIM** to Dorene Stretar, Clerk of the Board Specialist for Maricopa County Clerk of Board of Supervisors. The following was hand delivered at the address of 301 W Jefferson St 10th floor Phoenix, AZ 85003.

I declare under the penalty of perjury that the above information is correct and true to the best of my knowledge. A fee of \$85.00 was charged for this Service of Process.



Certified Officer Superior Court
Registered in Maricopa County, AZ
Lonnell Colbert # 7818