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Pro Se

**IN THE MUNICIPAL COURT
IN AND FOR THE TOWN OF SAHUARITA**

Patrick Fox,
Appellant

v.

James Pendleton,
Appellee

Case No.: CV2015-00025

**Appellant's Response to Appellee's Motion to
Correct or Modify the Record on Appeal**

Judge Avilez

1 Appellant Patrick Fox respectfully submits his response, opposing Appellee's request to add
2 new evidence and exhibits to the record on appeal.

MEMORANDUM OF POINTS AND AUTHORITIES

3
4
5 Appellant timely filed his Notice of Appeal and Designation of Record in this matter back in
6 December 2015. Appellee chose to wait 3 months before filing this motion, on the eve of his
7 deadline for filing his Appellee's Memorandum – unnecessarily delaying the appeal process.

8 The documents Appellee is now requesting be added to the record were not disclosed to
9 Appellant prior to, or after the hearing in this matter. Therefore, Appellant could not have had the
10 opportunity to challenge their authenticity or to prepare any manner of defense relating to them.

11
12 **Appellee's Proposed Exhibit 1**

1 1. Appellee's proposed Exhibit 1 bears no relevance to this matter as it pertains only to another
2 action, case number CV2015-00024, involving Appellant and Desiree Capuano. Therefore,
3 it's addition to the record should be denied.
4

5 **Appellee's Proposed Exhibits 2 and 3**

6 2. All of the emails included in Appellee's proposed Exhibits 2 and 3 are addressed to Desiree
7 Capuano, not to Appellee, and were neither directed at, not intended to be received by
8 Appellee. Therefore, they bear no relevance to this matter and their addition to the record
9 should be denied.

10 3. Public statements made by Appellant, on a publicly accessible website, and intended to be
11 received by the general public – not specifically by Appellee, do not meet the “directed at a
12 specific person” requirement of the statutory definition of harassment as provided by A.R.S. §
13 13-2921(E). Therefore, the printouts of the contents of the website do not establish any prior
14 acts of harassment, are not relevant to this matter, and their addition to the record should be
15 denied.
16

17 **Appellee's Proposed Exhibit 4**

18 4. Appellee's proposed Exhibit 4 consists of content from the website maintained by Appellant
19 which was published long after the hearing in the matter was held, and Appellant's appeal
20 memorandum was filed with this court. It cannot, possibly, be considered part of the record
21 on appeal because it did not even exist until long after this matter was disposed of in the
22 Municipal Court, and the deadline for Appellee to file his appeal memorandum had expired.

1 5. The content of Appellee's proposed Exhibit 4 was not sent or communicated by any means
2 from Appellant to Appellee, nor is Appellee mentioned or referenced in the article. Therefore,
3 Appellee's proposed Exhibit 4 has no relevance to this matter and it's addition to the record
4 should be denied.

5
6 **CONCLUSION**

7 None of the exhibits being proposed for addition to the record by Appellee at this time have any
8 relevance to Appellee's injunction against harassment against Appellant. For that reason, Appellant
9 argues this entire motion is frivolous and should be denied in it's entirety. Appellant further avers
10 this is just an attempt, on the part of Appellee, to delay the appeal process in order to keep his
11 injunction against harassment in place a little while longer.

12
Dated April 3rd, 2016.

Patrick Fox

CERTIFICATE OF MAILING

I CERTIFY that I mailed a copy of this Memorandum to the Sahuarita Municipal Court.

Date: April 3, 2016

By: _____
Patrick Fox, Appellant