

CLERK OF THE COURT  
SUPERIOR COURT OF ARIZONA

Michael K Jeanes  
Clerk

Maricopa County  
201 W Jefferson  
Phoenix, Arizona 85003

(602) 506-3676  
Fax - (602) 506-7684  
TDD - (602) 506-3211

SHERIDAN EQUITIES HOLDINGS LLC  
Plaintiff

CASE NO. CC2009-635281FD

Vs

CERTIFICATE OF  
ABANDONMENT  
ON TRANSFER

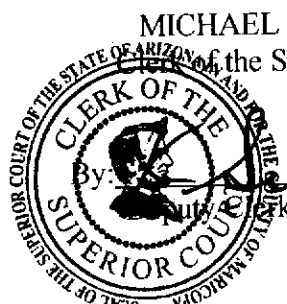
DARIO REYES & MARIA RODRIGUEZ  
Defendant

I, MICHAEL K JEANES, Clerk of the Superior Court of the State of Arizona, in and for the County of Maricopa, do hereby certify:

1. That Notice has been mailed to the Plaintiff.
2. That the Plaintiff has failed to pay the \$301.00 fee required by A.R.S. 12-284.
3. That the Plaintiff has failed to advise this office regarding his intentions in this matter.

The above premises considered, this transfer is deemed abandoned and herewith returned to the **January 19, 2010** Justice Court.

Signed and Sealed this date: **January 19, 2010.**



MICHAEL K JEANES  
Clerk of the Superior Court

RECEIVED  
JAN 20 2010  
AGUA FRIA JUSTICE COURT

JOHN W MOORE JR  
7321 N 16<sup>TH</sup> ST  
PHOENIX AZ 85020

THERESA L SMITH  
2415 W GREENWAY RD UNIT #9  
PHOENIX AZ 85023

ATTORNEY FOR PLAINTIFF

DEFENDANT

CLERK OF THE COURT  
SUPERIOR COURT OF ARIZONA

Michael K Jeanes  
Clerk

Maricopa County  
201 W Jefferson  
Phoenix, Arizona 85003

(602) 506-3676  
Fax - (602) 506-7684  
TDD - (602) 506-3211

SHERIDAN EQUITIES HOLDINGS LLC  
Plaintiff

CASE NO. CC2009-635281FD  
NOTICE OF RECEIPT OF  
CIVIL CASE FILE FROM  
AGUA FRIA JUSTICE COURT

Vs

DARIO REYES & MARIA RODRIGUEZ  
Defendant

RECEIVED  
JAN 9 0 2010  
AGUA FRIA JUSTICE COURT

NOTICE IS HEREBY GIVEN, that the civil case file in this action, having been transferred from the above named Justice Court, was received in this office as of this date, November 16, 2009. These documents will be filed upon the payment of a three hundred and one dollar (\$301.00) filing fee.

If this fee is not paid within fifteen (15) days from the date on this notice, the transfer will be deemed abandoned and the case file will be returned to the originating Justice Court.

AS NOTICE HEREOF, a copy of this notice has been mailed this date to the attorneys for/or all parties of this case, at the following addresses:

WILLIAM E CONNER  
13019 W DERERT COVE  
EL MIRAGE AZ 85335

JEFFREY KASTNER  
COMMUNITY LEGAL SERVICES  
305 S 2<sup>ND</sup> AVE.  
PHOENIX AZ 85306

ATTORNEY FOR PLAINTIFF  
**PLAINTIFF MUST PAY \$301.00**

ATTORNEY FOR DEFENDANT

If you have any questions, please either write to the above address, Attention: Civil Notice Desk – DCMS-FC/CV, or call (602) 506-3448. Contact via a Telecommunications Device for the Deaf (TDD) is available by calling (602) 506-3211.

MICHAEL K JEANES  
Clerk of the Superior Court

Dated: November 16, 2009

By:   
Deputy Clerk

1 Jeffrey Kastner, SBN: 021159  
2 COMMUNITY LEGAL SERVICES  
3 305 S. 2<sup>nd</sup> Avenue  
4 Phoenix, AZ 85306  
5 602-258-3434, Ext. 2700  
6 FAX 602-254-3957

7 **Attorney for the Defendant**

8 **MARICOPA COUNTY JUSTICE COURTS, STATE OF ARIZONA**  
9 **AGUA FRIA JUSTICE COURT**

AGUA FRIA JUSTICE COURT  
2009 NOV - 6 AM 8:48

10 SHERIDAN EQUITIES HOLDINGS, LLC,  
11 Plaintiff,  
12 v.  
13 DARIO REYES and MARIA RODRIGUEZ,  
14 Defendants.

Case No.: CC2009-635812

**NOTICE  
OF  
APPEARANCE**

(Assigned to the Honorable Joe Guzman)

15 Jeffrey Kastner of Community Legal Services hereby notifies the Court and all parties  
16 who have appeared in this action that the firm is representing Maria Rodriguez, Defendant,  
17 in the above-entitled matter.

18 **RESPECTFULLY SUBMITTED** this 6<sup>th</sup> Day of November, 2009,

19 COMMUNITY LEGAL SERVICES

20 By: \_\_\_\_\_

Jeffrey Kastner, Counsel for the Defendant

21  
22  
23 ORIGINAL of the foregoing FILED this 6<sup>th</sup> day of November, 2009, with:  
Clerk of the Court, Agua Fria Justice Court

24 COPY of the foregoing FAXED or HAND-DELIVERED this 6<sup>th</sup> day of November, 2009,  
25 to plaintiff's counsel,

William Edward Conner, Esq.  
13019 W. Desert Cove Rd.  
El Mirage, AZ 85335  
FAX: 623-478-2593

By: \_\_\_\_\_

1 MARIA RODRIGUEZ, pro per  
2 8160 W. Roma Ave.  
3 Phoenix, AZ 85033  
4 623-293-6635

5 Defendant

6 **MARICOPA COUNTY JUSTICE COURTS, STATE OF ARIZONA**  
7 **AGUA FRIA JUSTICE COURT**

8 SHERIDAN EQUITIES HOLDINGS, LLC,  
9 Plaintiff,

10 v.

11 DARIO REYES and MARIA RODRIGUEZ,  
12 Defendants.

Case No.: CC2009-635812

**ANSWER AND  
REQUEST TO DISMISS  
FOR  
LACK OF JURISDICTION**

**Jury Trial Requested**

(Assigned to the Honorable Joe Guzman)

2009 NOV -4 AM 8:38  
AGUA FRIA JUSTICE COURT

14 Defendant, MARIA RODRIGUEZ, hereby submits her answer to the plaintiff's  
15 complaint and moves this Court to dismiss this action.

16 **ANSWER**

17 Ms. Rodriguez ADMITS the allegations in paragraph 3 of the complaint to the extent  
18 that a "Notice of Eviction and Directive to Immediately Surrender Premises" was handed to  
19 her minor son on or about September 2, 2009, and a copy of such Notice was subsequently  
20 received by her via Certified Mail.

21 Ms. Rodriguez DENIES the allegations in paragraphs 1, 2, 4, 5, 6, 7, 8, and 9 of the  
22 complaint.

23 Ms. Rodriguez does not possess the information required to answer the allegation in  
24 paragraph 5 of the complaint and as such DENIES the allegation.  
25

## FACTS

1. On or about December 19, 2008, Mr. Dario Rayas obtained titled to real property located at 8160 W. Roma Ave., Phoenix, AZ, 85033, (the "Roma Ave. property"). (A copy of the Warranty Deed dated December 19, 2008, is attached as Exhibit 1.)
2. On or about December 18, 2008, Mr. Dario Rayas signed a Deed of Trust granting a security interest in the Roma Ave. property to Just Mortgage, Inc. (A copy of the Deed of Trust dated December 18, 2008, is attached as Exhibit 2.)
3. On or about February 5, 2009, Ms. Rodriguez leased the Roma Ave. property from Dario Rayas. The oral lease agreement was for a period of less than one year, and Ms. Rodriguez agreed to pay Mr. Rayas rent in the amount of \$650 per month. Ms. Rodriguez was current on her rent payments to Mr. Rayas through September 30, 2009.
4. On or about June 3, 2009, Tiffany & Bosco filed a Notice of Trustee Sale, File ID #09-14307, regarding the Roma Ave. property. (A copy of the Notice dated June 3, 2009, is attached as Exhibit 3.)
5. On or about September 2, 2009, the Roma Ave. property was purchased from the trustee at public auction by "Swartz & Brough, Inc., a Texas corporation," pursuant to the Deed of Trust executed by Dario Rayas. (A copy of the Trustee's Deed Upon Sale dated September 2, 2009, and a copy of Receipt T&B #09-14307 dated September 3, 2009, are attached as Exhibits 4 and 5, respectively.)
6. The Maricopa County Assessors Office lists Swartz & Brough, Inc. as the owner of the Roma Ave. property. (A copy of the Assessors Detailed Property Information Page is attached as Exhibit 6.)
7. Swartz & Brough, Inc., registered with the Arizona Corporation Commission on or about May 6, 2009, as a foreign corporation, file number F-1524602-6. (A copy of the Arizona Corporation Commission corporate inquiry is attached as Exhibit 7.)

- 1 8. On or about September 2, 2009, a person or persons claiming to be the owner(s) of the  
2 property came to the home when Ms. Rodriguez was not present and informed her minor  
3 child that the family must leave or the police would forcibly remove them. A Notice of  
4 Eviction and Directive to Immediately Surrender Premises (the "Notice") was given to Ms.  
5 Rodriguez' child. The copy of the Notice provided by the plaintiff in his complaint  
6 contains the notation "Mom not home". (A copy of the Notice is attached as Exhibit 8.)
- 7 9. Ms. Rodriguez' child is only twelve years old and was profoundly upset by this incident.  
8 On subsequent occasions, David Kruger and other unnamed persons claiming to be the  
9 owners of the property went to Ms. Rodriguez' home and demanded that she and her  
10 family immediately vacate the premises.
- 11 10. On September 15, 2009, Ms. Rodriguez contacted the plaintiff and explained that the  
12 Protecting Tenants at Foreclosure Act of 2009 (the "Act") requires the new property owner  
13 to assume the tenant's current lease and that the tenant must be given a minimum of 90-  
14 days notice prior to the termination of such tenancy.
- 15 11. On September 16, 2009, the plaintiff sent a letter to Ms. Rodriguez demanding that within  
16 five days she must either vacate the premises or execute a new lease with Sheridan Equities  
17 Holdings, LLC. (A copy of the plaintiff's letter dated September 16, 2009, is attached as  
18 Exhibit 9.)
- 19 12. Prior to the filing of this action, the parties agreed in substance to settle this matter.
- 20 13. On October 28, 2009, plaintiff Sheridan Equities Holdings, LLC, filed the complaint in this  
21 matter.
- 22 14. Sheridan Equities Holdings, LLC, registered with the Arizona Corporation Commission on  
23 or about March 31, 2009, as a limited liability corporation, file number L-1516383-6. (A  
24 copy of the Arizona Corporation Commission corporate inquiry is attached as Exhibit 10.)  
25

1 15. On October 29, 2009, prior to receiving notice of this case, Ms. Rodriguez sent the plaintiff  
2 money orders in the amount of \$650 for October rent and a signed lease via certified mail.  
3 Plaintiff signed for the delivery of the certified mail on October 30, 2009. (A copy of the  
4 money orders and a copy of the signature accepting the certified mail are attached as  
5 Exhibits 11 and 12, respectively.)

## 6 ARGUMENT

### 7 **1. The Agua Fria Justice Court does not have jurisdiction.**

8 This court does not have jurisdiction over this controversy because state law requires an  
9 action for a forcible detainer to be filed with the Superior Court if the property in question has  
10 been sold through a trustee's sale under a deed of trust. A.R.S. § 12-1173.01(A)(2) (A copy  
11 of A.R.S. § 12-1173.01 is attached as Exhibit 13.)  
12

13 The property in question, the Roma Ave. property, was sold through a trustee's sale  
14 under a deed of trust on September 2, 2009. (See Exhibits 3, 4, and 5.)

15 Because the Roma Ave. property was sold through a trustee's sale under a deed of trust,  
16 this action must be brought in Superior Court and therefore, cannot be heard in Justice Court.  
17 This action must be dismissed because the Agua Fria Justice Court does not have jurisdiction  
18 to hear this matter.

### 19 **2. The Complaint is Improper.**

20 This action must be dismissed because the complaint is improper. Pursuant to the  
21 Arizona Rules of Procedure for Eviction Actions, Rule 5(b)(1), the complaint must be brought  
22 in the legal name of the party claiming entitlement to possession of the property. (A copy of  
23 Rule 5 of the Arizona Rules of Procedure for Eviction Actions is attached as Exhibit 14.)  
24

25 Swartz & Brough, Inc., is domiciled in Texas. (See Exhibit 7.) Swartz & Brough, Inc.,  
lists the following corporate officers and directors with the Arizona Corporation Commission:

1 Andrew Swartz, William Norris, Ray Feeley, Stephen Howard, Ron Lilly, Leda Morris, Tracy  
2 Miller, Wesley Tucker, Taylor Reiley, and Jamel Ahktor. (See Exhibit 7.)

3 Sheridan Equities Holdings, LLC, is domiciled in Arizona. (See Exhibit 10.) Sheridan  
4 Equities Holdings, LLC, lists the following corporate officers and directors with the Arizona  
5 Corporation Commission: David Schweikert. (See Exhibit 10.)

6 Swartz & Brough, Inc., and Sheridan Equities Holdings, LLC, are separate entities  
7 because they are registered as separate entities with the Arizona Corporation Commission, and  
8 they share no common traits – their states of domicile are different and share no common  
9 corporate officers or directors.

10 The Roma Ave. property was purchased by Swartz & Brough, Inc., on or about  
11 September 2, 2009. (See Exhibits 4, 5, and 6.) Because Swartz & Brough, Inc., holds title to  
12 the Roma Ave. property, Swartz & Brough, Inc., is the party to properly claim entitlement to  
13 possession of the Roma Ave. property.

14 On October 28, 2009, plaintiff filed the complaint in this matter in the name of  
15 Sheridan Equities Holdings, LLC. Sheridan Equities Holdings, LLC, does not hold title to the  
16 Roma Ave. property and is not the same entity as Swartz & Brough, Inc., thus, Sheridan  
17 Equities Holdings, LLC, is not “the legal name of the party claiming entitlement to possession  
18 of the property.”

19 Because the complaint was not brought in the legal name of the party claiming  
20 entitlement to possession of the property, the complaint is improper under Rule 5(b)(1) and  
21 must be dismissed.

### 22 **3. The Protecting Tenants in Foreclosure Act of 2009 Prohibits Any Eviction Action**

23 Finally, this action is improper because the eviction of Ms. Rodriguez would violate the  
24 Protecting Tenants at Foreclosure Act of 2009 (the “Act”). The Act requires that a new owner  
25 taking title to residential property through foreclosure provide a minimum of 90-days notice to

1 a "bona fide" tenant. (A copy of Public Law No. 111-22, §§ 701-704, 2009, is attached as  
2 Exhibit 15.)

3 The Act defines a 'bona fide' lease or tenancy as:

4 (1) The mortgagor or the child, spouse, or parent of the mortgagor under the  
5 contract is not the tenant;

6 (2) The lease or tenancy was the result of an arms-length transaction; and

7 (3) The lease or tenancy requires the receipt of rent that is not substantially less  
8 than fair market rent for the property or the unit's rent is reduced or subsidized due to a  
9 Federal, State, or local subsidy. Protecting Tenants At Foreclosure Act (2009) § 702(b).

10 As applied to Ms. Rodriguez:

11 (1) The tenant, Ms. Rodriguez, is not the child, spouse, or parent of the mortgagor,  
12 Mr. Dario Rayas.

13 (2) Ms. Rodriguez and Mr. Rayas are unconnected and have no overt common  
14 interests. Therefore, Ms. Rodriguez' tenancy was the result of an arms-length transaction.

15 (3) The rent of \$650 per month for a two bedroom unit located near Indian School  
16 Rd. and 83<sup>rd</sup> Avenue is fair market rent for the property. A survey of the surrounding area  
17 found comparable properties offered for monthly lease from \$605 for a one-bedroom unit, to  
18 \$750 for a three bedroom unit. Therefore, Ms. Rodriguez lease of the property at \$650 per  
19 month is not substantially less than fair market value.

20 Because Ms. Rodriguez meets all of the requirements of § 702(b), she possesses a bona  
21 fide lease under the Act, and therefore, Section 702(a)(2)(B) applies. Thus, under the Act, the  
22 plaintiff is prohibited from terminating Ms. Rodriguez' tenancy before the expiration of a 90-  
23 day notice.  
24  
25

1 **PRAYER FOR RELIEF**

2 For the foregoing reasons, Ms. Rodriguez, prays to this court dismiss this action and  
3 vacate the hearing set for 9:00 am on November 4, 2009.

4 If this case is not dismissed, Ms. Rodriguez requests the Court to set a jury trial  
5 pursuant to A.R.S. 12-1176(B).

6 Ms. Rodriguez declares the above statements to be truthful and accurate to the best of  
7 her knowledge, information, and belief.

8 Respectfully submitted this 4th Day of November, 2009,

9  
10 By: *Maria Pulido*  
11 MARIA ROSARIO PULIDO RODRIGUEZ, Defendant

12  
13  
14  
15 ORIGINAL of the foregoing FILED this 4<sup>th</sup> day of November, 2009:  
16 Clerk of the Court, Agua Fria Justice Court

17  
18 COPY of the foregoing SERVED this 4<sup>th</sup> day of November, 2009,  
19 upon plaintiff's counsel,

20 William Edward Conner, Esq.  
21 13019 W. Desert Cove Rd.  
22 El Mirage, AZ 85335

23 By: *Maria Pulido*  
24  
25

**Exhibit 1**  
**Warranty Deed dated December 19, 2008**

# NOTICE OF EVICTION AND DIRECTIVE TO IMMEDIATELY SURRENDER PREMISES

TO: DARIO RAYAS <sup>MARIA RODRIGUEZ</sup> and/or the occupants of;  
8160 W ROMA AVE  
PHOENIX, AZ 85033

Pursuant to the recent Court ordered sale and transfer of title of this property to Swartz & Brough Inc., you are hereby notified that you are trespassing on the premises of 8160 W. Roma Ave, PHX, 85033 and are subject to immediate ejectment from the premises. This letter sent via hand delivery, first class mail and certified mail is legal notice to you that you are to leave the premises within FIVE (5) days from the first delivery of this letter. After five days have expired, a Court order will be sought and the assistance of law enforcement will be summoned to immediately remove you from the premises in execution of that Court order.

While Swartz & Brough Inc. has no legal obligations in this matter other than to remove you from the premises immediately, they are granting this five day period to allow you time to remove your belongings from the residence and to make arrangements for your departure there from without a breach of the peace. In no way will this period be extended past ~~June 30,~~ <sup>9/7/09</sup> 2009. At that time, arrangements will be made to remove you from the premises under color and force of law. If court ordered eviction becomes necessary by your failure to voluntarily surrender the premises, Sheridan Equities Holdings LLC will pursue you for an additional legal judgment seeking costs, fees and attorney's fees associated with such action.

If you have questions about this notice please consult an attorney, or call counsel for Swartz & Brough Inc., at (623) 341-7515.

THIS NOTICE PREPARED BY:

David Kruger  
Sheridan Equities  
623-329-7000

DATE: 9/2/09

6:30pm

William E. Conner, Esq.  
Attorney for Plaintiff – Law License Number 026179  
13019 W. Desert Cove Road  
El Mirage, AZ 85335-9752  
(623) 341-7515

X Refuse to Sign (Jason) Mom not here  
copy provided to Jason Rodriguez

AGUA FRIA JUSTICE COURT  
2009 OCT 28 11:29

**Exhibit 9**  
**Plaintiff's letter dated September 16, 2009**

**WILLIAM EDWARD CONNER, LLM**  
Attorney and Counselor at Law

13019 W. Desert Cove Road  
El Mirage, AZ 85335-9752  
[Williamconner@cox.net](mailto:Williamconner@cox.net)  
*LLM in Taxation*

Phone: 623.341.7515  
Fax: 623.478.2593  
Admitted in Georgia and Arizona

**September 16, 2009**

Ms. Maria Rodriguez  
8160 W. Roma Avenue  
Phoenix, Arizona 85033  
SENT VIA FIRST CLASS AND CERTIFIED MAIL  
RETURN RECEIPT NUMBER 70081140000383481026

Dear Ms. Rodriguez;

As you are aware, I am in receipt of your certified letter dated 9/15/09 wherein you cite recently enacted federal law as a defense to your pending eviction. I am aware of this law and would advise you that while it means many things, it (a) doesn't mean that you are not required to pay rent, or (b) that your failure to produce a legal lease stops our ability to eject you from the property.

If you are willing and able to so, please execute a new lease with Sheridan Equities Holdings, LLC within five (5) days of the receipt of this letter. If not, please voluntarily vacate the property within those five days. My client is willing to continue a new lease and/or honor the terms of the old lease if you can provide us with such a lease within five days of the receipt of this letter. If we do not receive a copy of your lease or you do not execute a new lease with my client within this five day period, we will be moving to evict you immediately.

If you have any questions, please contact me at the phone number listed above.

Respectfully,



William Edward Conner, Esq.  
Counsel for Sheridan Equities Holdings, LLC  
WEC/ms  
W/Encl.  
CC: DSS