

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2011-016976

01/23/2014

HON. MARK F. ACETO

CLERK OF THE COURT
M. Scott
Deputy

MICHAEL MERLIE, et al.

STEVEN W CHEIFETZ

v.

VAL VISTA LAKES COMMUNITY
ASSOCIATION, THE, et al.

MARK K SAHL

ROBERT A FOLLMER
1349 E SEA GULL DR
GILBERT AZ 85234-2611
LOIS M FOLLMER
1349 E SEA GULL DR
GILBERT AZ 85234-2611

MINUTE ENTRY

Courtroom 203-SEA

10:05 a.m. This is the time set for Final Pretrial Conference in this case. Plaintiff(s) Michael and Debra Merlie, are present with counsel, Steven W. Cheifetz. Defendant Val Vista Lakes Community Association is represented by counsel, Mark K. Sahl. Community President, Richard Andrews, is present. Counsel for the Association, Mark Arnett, is present. Defendants Robert A. and Lois M. Follmer are present on their own behalf.

Prior to the commencement of the conference Plaintiff's Exhibits 1-15 were marked for identification.

Discussion is held regarding caucusing.

10:10 a.m. A record of the proceedings is made by audio and/or videotape in lieu of a court reporter.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2011-016976

01/23/2014

The parties agree that this judge may caucus (i.e. speak separately) with each side about settlement. In the event the case does not settle, the parties further agree that this judge may remain on the case.

The Court proceeds off the record. The parties caucus with the Court.

2:57 p.m. A record of the proceedings is made by audio and/or videotape in lieu of a court reporter.

The parties and counsel are present in the courtroom.

The parties report that they have settled this case under the following terms:

- The HOA will pay to Plaintiffs \$43,500.00.
- Other than the previously issued Injunction this case will be dismissed *with prejudice*.
- The HOA's counsel will prepare a stipulation for dismissal *with prejudice* and the stipulation will be signed by all of the parties.
- The HOA's counsel will prepare a standard mutual release and the parties will sign that document.
- Other than the payment of \$43, 500.00 discussed above, each side will bear their own costs and attorney fees.
- Judge Foster issued an Injunction in this case in June, 2013. Defendants Follmer give up their right to appeal regarding this Injunction.
- The parties further agree that the Court will issue the following orders regarding this Injunction:
 1. This Injunction is continuing and is permanent and will remain in full force and effect as long as the Follmers live in or control or own the subject residence.
 2. The Merlies have the right but not the obligation to enforce the Injunction.
 3. The HOA has the right but not the obligation to enforce the Injunction.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2011-016976

01/23/2014

4. The HOA's right to enforce the Injunction does not create any greater obligation by the HOA to enforce the CC&Rs than it has regarding any other property owner.

Pursuant to Rule 80(d) the Court finds that the parties have reached a binding agreement.

IT IS ORDERED vacating all pending court settings including the trial that had been scheduled.

IT IS ORDERED placing this case on the Inactive Calendar for dismissal on **February 21, 2014**.

The Court notes that Defendants Follmer have filed a Motion to Extend Compliance Date.

Pursuant to motion of the Follmers and there being no objection,

IT IS ORDERED extending prior deadlines. More specifically,

IT IS ORDERED that in order to purge their contempt, Defendants must endeavor on an expedited basis to comply with the permanent injunction and must fully comply with that permanent injunction by no later than **February 28, 2014**.

IT IS FURTHER ORDERED effective **February 28, 2014**, and continuing until Defendants bring their property into full compliance with the permanent injunction, Defendants must pay both of the following: first, \$60 per day to Plaintiffs, and second, all reasonable attorney's fees incurred by Plaintiffs on or after **February 28, 2014** to the extent that the fees relate to non-compliance by Defendants with the permanent injunction.

There being no further need to retain the exhibits not offered in evidence in the custody of the Clerk of the Court,

IT IS ORDERED that the Clerk permanently release all exhibits not offered in evidence to the counsel causing them to be marked.

IT IS FURTHER ORDERED that counsel take immediate possession of all exhibits referenced above.

3:10 p.m. Matter concludes.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2011-016976

01/23/2014

FILED: Exhibit Worksheet, Exhibit Release Form