

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2017-013317

01/18/2018

HON. SHERRY K. STEPHENS

CLERK OF THE COURT
T. DeRaddo
Deputy

TERRAVITA COUNTRY CLUB INC

ANJALI J PATEL

v.

ANITA BELL

ANITA BELL
1754 LAKEVIEW ESTATE DR
COLDSRING TX 77331

RULING

The Court has considered Plaintiff's Motion for Summary Judgment filed November 30, 2017 and Plaintiff's Statement of Facts in Support of Motion for Summary Judgment. A response was not filed. Oral argument was not requested.

In a previously litigated case, Maricopa County Superior Court Case No. CV 2016-091991, Plaintiff was ordered to pay Defendants taxable costs in the amount of \$237. Plaintiff has attempted to pay this amount to Defendants without success. Plaintiffs filed this action under Rule 67(b), Ariz.R.Civ.P., to facilitate payment of the judgment. Specifically, Plaintiff seeks an order that it may deposit the full amount of the judgment with the Clerk of the Court to satisfy the judgment and discharge Plaintiff from further liability to Defendants arising from the prior litigation and judgment.

Summary judgment is appropriate only if no genuine issue of material fact exists and the moving party is entitled to judgment as a matter of law. *Colonial Tri-City Ltd. P'ship v. Ben Franklin Stores, Inc.*, 179 Ariz. 428, 432 (App. 1993) and *Johnson v. Earnhardt's Gilbert Dodge, Inc.*, 212 Ariz. 381, 385, 132 P.3d 825, 829 (2006). Thus, a motion for summary judgment should only be granted if the acts produced in support of the claim or defense have so little probative value, given the quantum of evidence required, that reasonable people could not agree with the conclusion advanced by the proponent of the claim or defense. *Orme Sch. v. Reeves*, 166 Ariz. 301, 309, 802 P.2d 1000, 1008 (1990). The facts must be viewed in a light

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most favorable to the party against whom it was direct and summary judgment is inappropriate if there is any doubt as to whether an issue of material fact exists. *Lennar Corp. v. Transamerica Ins. Co.*, 227 Ariz. 238, 242 (App. 2011) and *Joseph v. Markovitz*, 27 Ariz.App. 122, 125, 551 P.2d 571, 574 (1976). A statement of facts is the only means by which a party opposing summary judgment may create a record showing the existence of those facts which establish a genuine issue of material fact or otherwise preclude summary judgment in favor of the moving party. See Rule 56, Ariz.R.Civ.P.

Generally, a party must file a written response whenever a motion is filed. *Schwab v. Ames Const.*, 207 Ariz. 56, 59, 83 P.3d 56, 59 (App. 2004); *Choisser v. State ex rel. Herman*, 12 Ariz.App. 259, 260, 469 P.2d 493, 494 (1970). If the party opposing a motion fails to respond in writing, the trial court may, in its discretion, dispose of the motion summarily. *Choisser*, 12 Ariz.App. at 260, 469 P.2d at 494; Ariz. R. Civ. P. 7.1(b). When a motion is one for summary judgment, Rule 56 provides that a party opposing a summary judgment motion “must file affidavits, memoranda or both within 15 days after service of the motion.”

Given the quantum of evidence required to establish the declaratory claim in the Complaint and, viewing the evidence in a light most favorable to Defendants, the Court finds there are no genuine issues of material fact and summary judgment for the Plaintiff is appropriate.

Accordingly,

IT IS ORDERED granting Plaintiffs’ Motion for Summary Judgment.

IT IS FURTHER ORDERED Plaintiff may deposit the full amount of the judgment in Maricopa County Superior Court Case No. CV 2016-091991, \$237, with the Clerk of the Court to satisfy that judgment.