

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2016-007391

02/01/2017

HONORABLE LORI HORN BUSTAMANTE

CLERK OF THE COURT
T. Nosker
Deputy

DOS RIOS COMMUNITY ASSOCIATION

EDWARD D OBRIEN

v.

ISABELLE M TRASLAVINA, et al.

ISABELLE M TRASLAVINA
11821 W ELECTRA LN
SUN CITY AZ 85373

COMM. BARTH

MINUTE ENTRY

This case was referred to this division for a ruling on whether the Defendants' pleading constitutes a sufficient response to Plaintiff's Application for Entry of Default to preclude entry of default.

The court has reviewed Defendants "Responding to this Case" and Plaintiff's Response to Motion to Set Aside Judgment Entitled Responding to Case.

"The filing of the application for default constitutes the entry of default. A default is effective 10 days after the application for entry of default is filed." Ariz. R. Civ. P. 55(a)(4). "A default will not become effective if the party claimed to be in default pleads or otherwise defends as provided in these rules within 10 days after the application for entry of default is filed." Ariz. R. Civ. P. 55(a)(5). "The words 'otherwise defend' refer to a response which challenges the sufficiency of the pleadings to which the response is due, or which challenges whether the pleader has met all the precedent conditions which are necessary to give standings to the pleader's claim for relief." *Suncor Development Co. v. Maricopa County*, 788 P.2d 136, 139-40, 163 Ariz. 403, 406-07 (Ariz. Tax, 1990).

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Defendants document entitled "Responding to this Case" neither denies any of the allegations in the Complaint nor states any defense to the allegations asserted in the Complaint. Defendants failed to "plead or otherwise defend" as required by the Rules.

The court finds Defendants' pleading does not constitute a sufficient response to Plaintiff's Application for Entry of Default to preclude entry of default. Therefore, Plaintiff is entitled to entry of default.

IT IS ORDERED referring this matter back to Commissioner Barth to proceed with the entry of default.