

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2021-019187

02/01/2022

HONORABLE JAMES D. SMITH

CLERK OF THE COURT
K. Treftz
Deputy

SANDS SCOTTSDALE HOME OWNERS
ASSOCIATION

CHARLENE A CRUZ

v.

ESTATE OF FLOYD F GANZER, THE, et al.

ESTATE OF FLOYD F GANZER, THE
8437 E VIA DE ENCANTO
SCOTTSDALE AZ 85258

SECRETARY OF HOUSING AND
URBAN DEVELOPMENT
40 N CENTRAL AVE STE 1800
PHOENIX AZ 85004
JUDGE J. SMITH

MINUTE ENTRY

The Court received Plaintiff's Motion for an Order Allowing Service by Publication (filed 01/27/2022). Plaintiff acknowledged that the property owner, Floyd Ganzer, is deceased. Plaintiff cannot find any information about a probate case for Mr. Ganzer's estate, a personal representative, etc.

Service by publication is appropriate when a plaintiff cannot "determine the person's current address . . ." Ariz. R. Civ. P. 4.1(l)(1). The difficulty here, however, is not a lack of address for Mr. Ganzer; it is his death and the fact that serving him is impossible. The rule also requires that "service by publication is the best means practicable in the circumstances for providing the person with notice of the action's commencement[.]" Those same realities about Mr. Ganzer's death make it difficult to apply the rule here. It would stretch the bounds of reason

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to think publishing notice in a newspaper is the best means to notify Mr. Ganzer or a non-existent personal representative of the action.

Plaintiff framed the action as one against an estate. But the lack of a personal representative or special administrator seems to preclude such an action. A.R.S. § 14-3104. That statute lets secured creditors proceed, however, to enforce security “except as to any deficiency judgment” *See also* A.R.S. § 14-3614 (regarding special administrators). The Court would benefit from additional information from Plaintiff about the propriety of service by publication here. Plaintiff should file a supplement within 10 days of the Clerk filing this order.

IT IS SO ORDERED.