

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2011-055990

02/21/2012

HONORABLE LINDA H. MILES

CLERK OF THE COURT
C. Kelly
Deputy

ROBERT PROCTOR, et al.

EDWARD H BRITT

v.

SURPRISE FARMS I I COMMUNITY
ASSOCIATION, et al.

LYN ANNE BAILEY

MINUTE ENTRY

The Court has received and considered (1) Defendants' Motion to Dismiss with Prejudice Pursuant to Rule 12 (b)(1), and the Response and Reply thereto; and (2) Plaintiffs' Motion to Compel Arbitration, and the Response and Reply thereto.

THE COURT FINDS that Plaintiffs' claims are subject to the mandatory alternative dispute resolution procedures set forth in Article XV of the Declaration of Covenants, Conditions, Restrictions, Assessments, Charges, Servitudes, Liens, Reservations and Easements for Surprise Farms II ("Declaration").

IT IS ORDERED granting Defendants' Motion and dismissing this matter without prejudice to the parties' right to seek judgment on any award entered in arbitration between the parties.

IT IS FURTHER ORDERED denying Plaintiffs' Motion to Compel Arbitration because there has been no refusal to arbitrate on the part of the Defendants.

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This Court enters no ruling as to whether Plaintiffs' Complaint in this case constitutes the "Notice" contemplated by Section 15.3 of the Declaration. If the parties cannot resolve the issue on their own or through mediation, the matter ultimately must be decided by an arbitrator pursuant to Article XV of the Declaration.

ALERT: The Arizona Supreme Court Administrative Order 2011-140 directs the Clerk's Office not to accept paper filings from attorneys in civil cases. Civil cases must still be initiated on paper; however, subsequent documents must be eFiled through AZTurboCourt unless an exception defined in the Administrative Order applies.

NOTICE: Due to rotation of judicial officers, effective June 20, 2012, all civil matters assigned to the Honorable Linda H. Miles will be assumed by the Honorable Michael D. Gordon.

/S/ LINDA H. MILES

THE HONORABLE LINDA H. MILES