

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2016-054557

03/10/2017

HONORABLE JOHN R. HANNAH JR

CLERK OF THE COURT
W. Tenoever
Deputy

ANITA R BELL, et al.

ANITA R BELL
6751 E AMBER SUN DR
SCOTTSDALE AZ 85266

v.

TERRAVITA COUNTRY CLUB INC

DAXTON R WATSON

WILLIAM M BROWN
6751 E AMBER SUN DR
SCOTTSDALE AZ 85266

RULING

Courtroom 102 - NE

3:02 p.m. This is the time set for Oral Argument on Plaintiff's Motion for Partial Summary Judgment and Motion to Continue on the Inactive Calendar and Defendants' Cross-Motion for Judgment on the Pleadings. Plaintiffs Anita R. Bell and William M. Brown are present on their own behalves. Defendant Terravita Country Club, Inc. is represented by counsel, Dax R. Watson.

A record of the proceedings is made digitally in lieu of a court reporter.

Arguments are heard.

IT IS ORDERED the plaintiff's motion for partial summary judgment as to the monies owed as of October 24, 2016 is granted. Summary judgment is granted in plaintiff's favor as to

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his request for a declaratory judgment that no monies were owed to the defendant for late fees, return check charges, unpaid assessments, etc. as of that date.

The Court finds that the question whether the plaintiff is entitled to include a restrictive endorsement on the checks going forward is within the scope of the original complaint because that was at least part of the underlying dispute originally.

As to that, the Court finds and declares that the plaintiff does not have the right to insist that the defendant accept his tender of payment with a restrictive endorsement.

As to the fine arising from the allegation that Mr. Brown made a threat to somebody,

IT IS ORDERED denying plaintiff's motion for leave to file amended complaint.

It is within the Court's discretion to decide whether to allow another claim to be joined and the Court's judgment is that should be a separate lawsuit.

There is no clear prevailing party in this lawsuit so neither side will be awarded costs.

Unless there is a mandatory basis for fees, the Court in its discretion would not grant either side attorneys' fees.

IT IS ORDERED that if the defendant wishes to file a fee application, the defendant shall notify the Court in writing not more than 5 business days from today's date. If no fee award is requested then the Court will issue a separate order that will adopt the minute entry from this hearing as the final judgment in this case.

3:58 p.m. Hearing concludes.