

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2018-097752

03/28/2019

HONORABLE ANDREW J. RUSSELL

CLERK OF THE COURT
M. Kay
Deputy

PALM VALLEY COMMUNITY ASSOCIATION SAMUEL C RICHARDSON

v.

CARLOS GALINDO

CARLOS GALINDO
313621 W MONTE VISTA RD
GOODYEAR AZ 85395

COMM. RUSSELL

RULING ON MOTION

Pending before the Court is Plaintiff's Motion for Summary Judgment. The Court has reviewed the Motion, together with the exhibits filed with that Motion, the record in this matter, and the Response and Objection filed by Defendant. No Reply has been filed, and the deadline for doing so has passed. Although Plaintiff requested oral argument, the Court does not believe that additional argument would assist the Court in ruling on the Motion.

Summary Judgment is appropriate if there are no genuine issues of material fact and the movant (here, Plaintiff) is entitled to judgment as a matter of law. *See, e.g.,* Ariz. R. Civ. P. 56. The party moving for summary judgment must produce evidence demonstrating the absence of a genuine issue of material fact and must explain why summary judgment is warranted. *See Nat'l Bank of Ariz. v. Thruston*, 218 Ariz. 112, 114-15, ¶ 12, 180 P.3d 977, 979-80 (App. 2008). If the moving party does so, the burden then shifts to the nonmoving party (here, Defendant) to present sufficient *evidence* demonstrating the existence of a disputed fact. *See id.*, 218 Ariz. at ¶ 26. The nonmoving party cannot merely rest on its pleadings, but instead must call the Court's attention to evidence that explains why the motion should be denied. *Id.* "The opponents of a motion for summary judgment do not raise a genuine issue of fact by merely stating in the record that such an issue exists. Rather, they must show that competent evidence is

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available which will justify a trial on the issue.” See *Flowers v. K-Mart Corp.*, 126 Ariz. 495, 499, 616 P.2d 955, 959 (App. 1980).

Here, Plaintiff produced evidence demonstrating that Defendant took title to certain real property, subject to a recorded Declaration of Covenants, Conditions and Restrictions (CC&Rs). Among other things, the CC&Rs require Defendant to pay certain assessment, charges, fees, etc. Plaintiff also produced evidence showing that Defendant has breached his obligations under the CC&Rs. Although Defendant filed a Response to the Motion for Summary Judgment, his Response only identified a few irrelevant typographical errors in Plaintiff’s Motion, and discussed his attempts to negotiate a resolution of this dispute. Defendant presented no evidence to contradict Plaintiff or to otherwise show the existence of a genuine issue of material fact.

Because there are no genuine issues of material fact in dispute in this matter and Plaintiff is entitled to judgment as a matter of law,

IT IS ORDERED granting Plaintiff’s Motion for Summary Judgment.

IT IS FURTHER ORDERED that Plaintiff may file an Application for Attorneys’ Fees and Costs, together with an Affidavit in support of that Application, and a proposed form of Judgment, on or before **April 12, 2019**. If Plaintiff files such an Application/Affidavit/proposed form of Judgment, Defendant may file a Response on or before **April 26, 2019**. The Court will rule thereafter.