

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2021-095990

03/15/2023

HONORABLE RODRICK COFFEY

CLERK OF THE COURT
K. Tiero
Deputy

VINEYARD COMMONS HOMEOWNERS
ASSOCIATION

MARK W WALDRON

v.

JOSEPH M MARTINEZ, et al.

JOSEPH M MARTINEZ
4038 W SAINT KATERI DR
PHOENIX AZ 85041

JOVITA MARTINEZ
4038 W ST KATERI DR
PHOENIX AZ 85041
JUDGE COFFEY

MINUTE ENTRY

The Court has considered Plaintiff's Motion for Summary Judgment. No response was filed and the deadline for filing a response has expired.

Motions for summary judgment "should be granted if the facts produced in support of the claim or defense have so little probative value, given the quantum of evidence required, that reasonable people could not agree with the conclusion advanced by the proponent of the claim or defense." *Orme School v. Reeves*, 166 Ariz. 301, 309 (1990). When considering a motion for summary judgment, all evidence of the non-moving party is to be believed, and all justifiable inferences are to be drawn in the non-movant's favor. *Id.* at 309-10. Summary judgment should not be used as a substitute for a trial simply because the Court may believe the moving party will probably prevail or that the moving party should prevail at trial. *Id.*

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The party moving for summary judgment must produce evidence that it believes demonstrates the absence of a genuine issue of material fact and must explain why summary judgment is warranted. *Nat'l Bank of Ariz. v. Thruston*, 218 Ariz. 112, 115 (App. 2008). If the non-moving party has the burden of proof of the claim or defense at trial, the moving party need not disprove the nonmoving party's claim or defense, but need only point out the lack of evidence on an essential element of the claim or defense. *Id.* at 117. If the moving party meets its burden, the burden shifts to the nonmoving party to present sufficient evidence demonstrating the existence of a disputed fact. *Id.* at 119. The nonmoving party cannot then rest on its pleadings, but must call to the Court's attention evidence to explain 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 available which will justify a trial on the issue. *Flowers v. K-Mart Corp.*, 126 Ariz. 495, 499 (App. 1980). "If the party with the burden of proof on the claim or defense cannot respond to the motion by showing that there is evidence creating a genuine issue of fact on the element in question, then the motion for summary judgment should be granted." *Orme School* at 310.

The Court finds that there are no genuine issues of material fact and Plaintiff is entitled to summary judgment. Accordingly,

IT IS ORDERED granting Plaintiff's Motion for Summary Judgment. Plaintiff shall lodge a proposed form of Judgment by no later than April 15, 2023.