

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2021-001865

03/28/2025

HONORABLE SCOTT A. BLANEY

CLERK OF THE COURT
P. McKinley
Deputy

VAL VISTA LAKES COMMUNITY
ASSOCIATION, THE

TESSA KNUEPPEL

v.

SUSAN M WELLMAN, et al.

OLEN V LENETS

JOSHUA M BOLEN
JUDGE BLANEY

RULING

The Court has reviewed and considered Defendant Susan M. Wellman's *Supplemental Brief in Opposition to Plaintiff's Application for an Order to Show Cause Re: Contempt*, Plaintiff's *Response to Supplemental Brief*, and the record in this case. Defendant did not file a reply in support of her *Supplemental Brief*.

The present briefing arose during the November 12, 2024 Evidentiary Hearing combined with Trial on the Merits on Plaintiff's *Motion for Sanctions and Order to Show Cause Re: Contempt*. Counsel for Defendant made an oral motion for judgment as a matter of law at the conclusion of Plaintiff's case, arguing that Plaintiff was not entitled to the relief that it was seeking because the order on which the *Motion for Sanctions* was based required Plaintiff to engage in self-help before seeking judicial relief. The Court therefore ordered supplemental briefing on the issue. "Self-help" in this case refers to the Association entering onto Plaintiff's property and removing all the accumulated trash and other debris and then billing Defendant for the clean-up. The Association has already engaged in this form of self-help with Defendant multiple times.

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Pursuant to Rule 50, Ariz.R.Civ.P., Judgment as a matter of law is appropriate if the Court finds that a reasonable fact-finder would not have a legally sufficient evidentiary basis to find for the Plaintiff. When considering Defendant's motion, the Court will not weigh the credibility of witnesses or resolve conflicts of evidence and any reasonable inferences that could be drawn therefrom.

THE COURT FINDS that the underlying order does not mandate that Plaintiff engage in self-help prior to seeking assistance from the Court. First, nothing in the wording of the order requires Plaintiffs to attempt self-help prior to asking the Court to enforce its order. The operative language is permissive – merely recognizing that Plaintiff has the right to engage in self-help. Moreover, Plaintiff has engaged in self-help multiple times since the Court issued its order. It appears Defendant inexplicably continues to violate the order after each time that Plaintiff cleans it up. The Court's order does not require Plaintiff to serve as Defendant's provider of bulk trash collection.

THE COURT THEREFORE FINDS that Defendant has failed to establish that a reasonable fact-finder would not have a legally sufficient evidentiary basis to find for the Plaintiff.

On a failure to show good cause, and in the Court's discretion:

IT IS ORDERED denying Defendant's oral motion for judgment as a matter of law pursuant to Rule 50, Ariz.R.Civ.P.

IT IS FURTHER ORDERED the Court will schedule the conclusion of the Evidentiary Hearing combined with Trial on the Merits by separate minute entry.