

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2019-055353

03/11/2026

HONORABLE MELISSA IYER JULIAN

CLERK OF THE COURT
A. Cage
Deputy

JIE CAO, et al.

JIE CAO
15742 E EAGLE CREST RD
FOUNTAIN HILLS AZ 85268

v.

LORNE POLGER, et al.

JEFFERSON R HAYDEN
LOUIS D LOPEZ
STONE XIA
15742 E EAGLE CREST RD
FOUNTAIN HILLS AZ 85268
HAINING XIA
15742 E EAGLE CREST RD
FOUNTAIN HILLS AZ 85268
JUDGE JULIAN

RULING

Re: Pending Motions

This case has been partially stayed in accordance with the Arizona Supreme Court mandate, filed November 17, 2025. This Court held a status conference on January 23, 2026 to discuss the terms of the mandate and the next steps to implement its directives. (*See* Minute Entry, filed 1/27/26). At that hearing, the Court set a briefing schedule and deadline for a proposed judgment for the dismissal of Defendant The Fredrick Apts LLLP and its fee application. The Court stayed the remaining issue to be litigated and referred the parties to arbitration as required by the mandate.

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After the hearing, several motions and other documents were filed, including those listed below:

1. Plaintiffs' Motion to Stay Judgment of Attorneys' Fees, filed January 27, 2026
2. Defendants' Motion to Strike Plaintiffs' Motion to Stay Judgment of Attorneys' Fees, filed January 27, 2026;
3. Plaintiffs' Motion to Quiet Title, filed January 27, 2026;
4. Defendants' Motion to Strike Plaintiffs' Motion to Quiet Title, filed January 27, 2026;
5. Motion For Entry of Order for Contempt Against Plaintiffs for Refusal To Comply With Order Compelling Arbitration, filed February 5, 2026;
6. Motion To Strike Defendants' Motion For Entry Of Order For Contempt Against Plaintiffs For Refusal To Comply With Order Compelling Arbitration, filed February 8, 2026;
7. Motion To Disqualify Counsel For The Dorsey Place Condominium Association, To Require Independent Counsel, And For Related Relief, filed February 9, 2026;
8. Defendant The Fredrick Apts LLLP's Application For Attorneys' Fees And Costs, filed February 20, 2026;
9. Defendant The Fredrick Apts LLLP's Notice Of Lodging Proposed Form Of Judgment, filed February 20, 2026;
10. Motion To Strike Defendant The Fredrick Apts LLLP's Notice Of Lodging Proposed Form of Judgment, filed March 2, 2026; and
11. Motion to Compel Initiation of Arbitration, Appoint Independent Counsel and Arbitrator, and Extend Stay; filed March 9, 2026.

The Court will address the above motions herein and has set forth orders below regarding any future filings in this matter, which are subject to the pending stay. Any motions, pleadings, or other filings that do not comply with the Court's orders below will be summarily denied.

Motion to Stay Judgment of Attorneys' Fees/Related Motion to Strike

With respect to the motion to strike, the Court finds that Defendants are not prejudiced to the extent the motion does not fully comply with the court's procedural rules and that a ruling on the merits will be most beneficial to the parties at this juncture. Plaintiffs' Motion to Stay Judgment of Attorneys' Fees, filed January 27, 2026 seeks a stay of the attorneys' fees awarded by the Arizona Supreme Court to Defendants pursuant to the mandate. As this Court explained at the January 23, 2026 status conference, this Court "is absolutely bound by the decision and mandate of an appellate court and . . . it is not within the jurisdiction of the trial court to review the appellate court's determination." *Tovrea v. Superior Court In & For Maricopa Cnty.*, 101 Ariz. 295, 297 (1966).

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Accordingly, this Court does not have jurisdiction to modify the fee award by allowing for installment payments over a three-year period as Plaintiffs request in the alternative. No basis for imposing a stay of entry of judgment on the fees awarded has otherwise been supported.

IT IS THEREFORE ORDERED denying Plaintiffs' Motion to Stay Judgment of Attorneys' Fees, filed January 27, 2026 and denying Defendants' Motion to Strike Plaintiffs' Motion to Stay Judgment of Attorneys' Fees, filed January 27, 2026;

Motion to Quiet Title/Related Motion to Strike

As noted by Defendant's Motion to Strike, Plaintiffs' motion to quiet title violates the limits imposed by the Supreme Court mandate as well as this Court's order staying the case and directing the parties' to arbitrate the sole remaining issue identified in the mandate. For these reasons,

IT IS ORDERED granting Defendants' Motion to Strike Plaintiffs' Motion to Quiet Title, filed January 27, 2026.

IT IS FURTHER ORDERED striking Plaintiffs' Motion to Quiet Title, filed January 27, 2026.

Plaintiffs' Motion to Disqualify Counsel

Plaintiffs' Motion To Disqualify Counsel For The Dorsey Place Condominium Association, To Require Independent Counsel, And For Related Relief, filed February 9, 2026 is not properly supported by any citation to authority that stands for the proposition that an attorney representing a condominium association has fiduciary duties to the individual association members, which is the premise of the motion seeking counsel's disqualification. While this Court appreciates that Plaintiffs are now pursuing this matter as self-represented parties, the Court cannot excuse their failure to support the motion with proper legal authority as the Court is required to hold self-represented parties to the same standard as attorneys.

IT IS THEREFORE ORDERED denying Plaintiffs' Motion To Disqualify Counsel For The Dorsey Place Condominium Association, To Require Independent Counsel, And For Related Relief, filed February 9, 2026.

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Fredrick Apts LLLP's Fee Application/Lodged Judgment & Related Motion to Strike

As set forth in this Court's minute entry orders, filed January 27, 2026, the Supreme Court mandate resulted in the affirmed dismissal of the claims filed against Defendant The Fredrick Apts, LLLP. Accordingly, the Court ordered the filing of a fee application and proposed form of judgment to reflect the dismissal and to allow the parties to brief the request for an award of attorneys' fees.

Fredrick's fee application was filed together with a statement of taxable costs and a proposed judgment dismissing the claims asserted against it in the Third Amended Complaint. Plaintiffs responded to the fee application and filed a motion to strike the notice of lodging.

The Court has considered the merits of these filings and the entire record in this matter and finds, and orders as follows:

A review of the motion to strike reveals that it partially reflects Plaintiffs' misunderstanding of the relief ordered by the Supreme Court in 2024, which Plaintiffs seem to believe revested them with an ownership interest in the condominium based upon its finding that "the forced sale of the Xias' unit alone rather than as part of a sale of all common elements and units of the condominium was impermissible under § 33-1228(C)." *Cao v. PFP Dorsey Investments, LLC*, 257 Ariz. 109, 117, ¶ 40 (2024). But the Supreme Court's later mandate clarified its order by noting that "the trial court[']s dismissal of all claims with prejudice] is affirmed and the sole remaining issue to be determined is the fair market value of the Xias' condominium unit, to be paid to the Xias as their total compensation in this matter." (Aug. 20, 2025 Order at 3.) A.R.S. § 33-1228(G)(1)(2018) is the procedure that must be followed to determine the amounts owed to the Plaintiffs, but nothing in the statute or the Supreme Court's orders revests them with an ownership interest in the condominium.

The remainder of the motion to strike merely makes substantive arguments opposing the request for fees under A.R.S. § 12-341.01(A). A motion to strike is not an appropriate vehicle to use for responding to or opposing a motion and, in this case, Plaintiffs already filed a separate response to the fee application. There is no basis for striking the proposed form of judgment Fredrick lodged.

Accordingly,

IT IS ORDERED denying Plaintiffs' Motion To Strike Defendant The Fredrick Apts LLLP's Notice Of Lodging Proposed Form of Judgment, filed March 2, 2026.

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Fredrick seeks an award of \$83,591.50 in attorneys' fees and \$328.20 in costs against Plaintiffs Fredrick cites A.R.S. §§ 12-341, 12-341.01(A), and 12-1840 as providing the basis for a fee award.

The Court declines to award fees to Fredrick under Section 12-341.01(A). The operative pleading asserted six claims against Fredrick: declaratory judgment, quiet title, wrongful recordation, continuing trespass/ouster, ejectment, and unjust enrichment. As pled against Fredrick, these are principally property-based, statutory, and equitable theories directed at the current holder of title and possession, rather than claims seeking to enforce, interpret, or obtain relief for breach of an agreement between Plaintiffs and Fredrick. Plaintiffs do allege generally that a recorded condominium declaration established CC&Rs applicable to owners. But on this record the declaration and the condominium termination history function as background to the chain of title and the asserted right to possession, not a clearly identified contract that supplies the duty allegedly violated by Fredrick or that must be construed to resolve Fredrick's liability. That distinguishes the claims against Fredrick from the claims historically litigated against the Association and other defendants, which more directly implicate the condominium governance documents and the termination process and thus more naturally present contract-centered issues. Here, by contrast, Fredrick was added in the Third Amended Complaint as the alleged downstream purchaser and current possessor. The Court is not persuaded that the claims against Fredrick clearly arise out of contract for purposes of A.R.S. § 12-341.01(A).

Because Fredrick has not shown that the claims against it arise out of contract and did not request an award of fees on any other grounds, the Court denies Fredrick's request for attorneys' fees. The Court does not reach the remaining discretionary and reasonableness arguments.

Fredrick is the successful party as to the claims asserted against it in the Third Amended Complaint, which the Court dismissed pursuant to the mandate as reflected in the January 23, 2026 Minute Entry. The Court awards Fredrick its taxable costs under A.R.S. § 12-341, in the amount requested of \$328.20.

IT IS ORDERED denying Defendant The Fredrick Apts LLLP's Application for Attorneys' Fees.

IT IS FURTHER ORDERED awarding Defendant The Fredrick Apts LLLP taxable costs of \$328.20. An award of these costs is included in the judgment of dismissal filed concurrently herewith.

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**Contempt Motion
Related Motion to Strike
Motion to Compel Initiation of Arbitration**

The Court has reviewed Defendants' Motion for Entry of Order for Contempt Against Plaintiffs for Refusal to Comply with Order Compelling Arbitration, Plaintiffs' Motion to Strike that contempt motion, and Plaintiffs' Motion to Compel Initiation of Arbitration, Appoint Independent Counsel and Arbitrator, and Extend Stay. The Court has also reviewed its January 23, 2026 Minute Entry compelling arbitration and staying this case. Finally, the Court has reviewed the Arizona Supreme Court's March 22, 2024 opinion, the Arizona Supreme Court's August 20, 2025 clarification order, and the November 17, 2025 mandate. *See Cao v. PFP Dorsey Investments, LLC*, 257 Ariz. 109 (2024); Ariz. Sup. Ct. Order, *PFP Dorsey Invs., LLC v. Cao*, No. CV-25-0071-PR (Aug. 20, 2025); Mandate, *PFP Dorsey Invs., LLC v. Cao*, No. CV-25-0071-PR (Ariz. Nov. 17, 2025).

Defendants argue that Plaintiffs are in contempt of the Arizona Supreme Court's mandate and this Court's January 23, 2026 order because Plaintiffs have "refuse[d] to submit to arbitration," and Defendants request an order enforcing the Termination Agreement provision stating that failure to submit the valuation issue to arbitration results in the Association's appraisal being "final and binding." Defendants further contend that the Supreme Court required arbitration "as set forth" in both A.R.S. § 33-1228 and the Termination Agreement, and they ask the Court to deem the Association's \$234,000 appraisal the final sale amount based on Plaintiffs' alleged nonparticipation.

Plaintiffs deny that they are refusing arbitration. Plaintiffs characterize Defendants' motion as an effort to evade "real arbitration," contend Defendants are relying on an "impermissible" Termination Agreement, and argue that A.R.S. § 33-1228 requires arbitration "by an arbitrator affiliated with a national arbitration association and under the rules of that association at the association's expense." Plaintiffs contend Defendants are misreading the statute and misrepresenting Plaintiffs' willingness to arbitrate; Plaintiffs ask the Court to strike the contempt motion and request sanctions against Defendants for bad faith.

In their separate Motion to Compel Initiation of Arbitration, Plaintiffs assert Defendants have not "meaningfully initiated" arbitration and request that the Court compel initiation, appoint independent counsel for the Association, appoint a qualified arbitrator, and extend the stay.

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A. Contempt is denied; the record reflects a dispute over the required arbitration procedure, not a willful refusal to comply with the Court's order.

The Court's January 23, 2026 order compelled the parties "to initiate arbitration proceedings to adjudicate the remaining fair market value determination based upon the Supreme Court's mandate and in accordance with the termination agreement." (Minute Entry (Jan. 23, 2026).) The parties' current filings show a genuine, ongoing disagreement about what "arbitration" procedure is required, including whether the Termination Agreement's appraisal-and-third-appraiser mechanism controls, whether the statute requires an arbitrator affiliated with a national arbitration association, and how those directives fit together.

On this record, the Court is not prepared to find that Plaintiffs have willfully violated the Court's order or the mandate in a manner warranting contempt. The dispute is better addressed by clarifying the required procedures and setting firm deadlines to ensure compliance going forward. The Court therefore denies Defendants' contempt request without prejudice to seeking sanctions if either side fails to comply with the directives below.

Because the Court is denying contempt and issuing a detailed compliance order, Plaintiffs' Motion to Strike is denied to the extent it seeks sanctions against Defendants on this record. The Court will not litigate reciprocal accusations of contempt and bad faith by motion practice. The Court's focus is completion of the valuation arbitration ordered by the Arizona Supreme Court.

B. Interpretation and Application of Arizona Supreme Court Orders/Mandate

The only remaining issue on remand is fair market value. As noted by the Supreme Court's clarification order, that valuation will be Plaintiffs' total compensation. In March 2024, the Arizona Supreme Court vacated the Court of Appeals' decision, affirmed the trial court except as to issues encompassed in Part II of the opinion, and remanded for further proceedings consistent with the opinion. *Cao*, 257 Ariz. at 123, ¶ 48. In its later clarification order, the Arizona Supreme Court expressly resolved the parties' post-remand dispute by clarifying that the trial court's dismissal was affirmed and that "the sole remaining issue to be determined is the fair market value of the Xias' condominium unit, to be paid to the Xias as their total compensation in this matter." (Aug. 20 2025 Order at 3.) The Court rejects both parties' attempts to broaden arbitration into a relitigation of the previously dismissed claims or the overall legality of the termination. Those issues are not within the scope of the remand as clarified.

The Supreme Court required "final and binding arbitration" and directed that it proceed as set forth in *both* the statute and the Termination Agreement. The clarification order further

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states that the superior court's August 8, 2024 and December 3, 2024 minute entries were vacated, and that the matter is remanded "for the parties to engage in final and binding arbitration, as set forth in A.R.S. § 33-1228 and the Condominium Termination Agreement, to determine the fair market value of the Xias' unit." (Aug. 20, 2025 Order at 3 (emphasis added).) The November 17, 2025 mandate commands that proceedings be held as required to comply with the Supreme Court's decision attached to the mandate. (Mandate at 2.)

Accordingly, the Court rejects Defendants' framing that Plaintiffs' insistence on a statutory arbitration process is contemptuous on its face. The statute itself contains an arbitration directive and specific arbitration features. A.R.S. § 33-1228(G)(1) (2018) The Court also rejects Plaintiffs' framing that the Termination Agreement can be ignored in favor of whatever arbitration format Plaintiffs prefer. The Supreme Court expressly incorporated the Termination Agreement into the arbitration directive.

In March 2024, the Arizona Supreme Court held that "the 2018 version of § 33-1228, which was in effect when the condominium was terminated, applied." *Cao*, 257 Ariz. at 122, ¶ 45. Defendants are correct that the 2018 amended version of the statute governs. Plaintiffs are incorrect to the extent they argue an earlier statutory version controls.

The parties argue past each other on a key point because the statute does not merely say "arbitrate" in the abstract. Subsection (G)(1) provides that if the unit owner obtains a second independent appraisal and that appraisal determines compensation more than five percent higher than the association's appraisal, "the unit owner shall submit to arbitration by an arbitrator affiliated with a national arbitration association and under the rules of that association at the association's expense and the arbitration amount is the final sale amount." § 33-1228(G)(1). Plaintiffs are correct that the statutory text includes an affiliation and rules requirement. Defendants are incorrect to the extent they suggest the statute provides "no additional direction" beyond arbitration.

At the same time, the Termination Agreement sets out a detailed sequence for appraisal review, notice of arbitration, and arbitrator appointment, including a provision that the owner's appraiser and the association's appraiser jointly appoint a third independent appraiser to act as arbitrator, and that failure to submit the arbitrable issue to arbitration by the contractual deadline results in the Association's appraisal becoming final and binding as to that unit. Defendants are correct that the Termination Agreement contains these procedural mechanics. Plaintiffs are incorrect to the extent they argue the Termination Agreement is categorically irrelevant to the required arbitration procedure on remand.

The Supreme Court's directive requires this Court to harmonize and implement both sources for the arbitration procedure as to the remaining issue. The Court will therefore order a

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procedure that follows the Termination Agreement's procedural steps for arbitration where practicable, while also enforcing the statute's requirement that arbitration, when triggered by the statutory threshold, be conducted by an arbitrator affiliated with a national arbitration association and under that association's rules, at the Association's expense.

Defendants ask the Court to enforce the Termination Agreement's default provision and deem the Association's \$234,000 appraisal final due to alleged refusal to arbitrate. The Court denies that request at this time. The Supreme Court directed the parties to "engage in final and binding arbitration" to determine fair market value. Given the parties' documented disagreement about what procedure complies with the remand directive, the Court will not short circuit arbitration by imposing a valuation outcome as a contempt remedy. The Court's order below is designed to remove ambiguity and ensure arbitration proceeds promptly. If a party fails to comply with the clarified procedure and deadlines, the Court will then consider sanctions based on a clearer record.

Plaintiffs ask the Court to appoint independent counsel for the Association and to appoint an arbitrator. As noted above, there is no basis to disqualify the Association's counsel nor does this Court have authority to "appoint" new counsel for any party in a civil matter.

Further, Supreme Court's mandate does not contemplate a court-administered arbitration proceeding outside of the procedures set forth in the statute and termination agreement. The Court will not select an arbitrator in the first instance. However, the Court will impose a short, specific schedule and will set a backup procedure to prevent either side from stalling the process any further.

C. Arbitration Procedure Orders

IT IS ORDERED denying Defendants' Motion for Entry of Order for Contempt Against Plaintiffs for Refusal to Comply with Order Compelling Arbitration. The denial is without prejudice to the Court imposing sanctions, including monetary sanctions and other appropriate relief, if any party fails to comply with the directives and deadlines in this Order.

IT IS FURTHER ORDERED denying Plaintiffs' Motion to Strike Defendants' Motion for Contempt.

IT IS FURTHER ORDERED granting Plaintiffs' Motion to Compel Initiation of Arbitration in part and denying it in part. The motion is granted to the extent the Court orders immediate initiation and completion of the arbitration process described below and extends the stay; it is denied to the extent it seeks appointment of counsel or appointment of an arbitrator by the Court at this time.

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IT IS FURTHER ORDERED that arbitration must proceed and be completed consistent with the Arizona Supreme Court’s clarification order and mandate, as follows:

1. **Scope.** The sole issue for arbitration is the fair market value of Plaintiffs’ condominium unit, and the amount determined will be paid to Plaintiffs as their total compensation in this matter. No party may expand arbitration into claims or issues beyond valuation.
2. **Governing procedure.** Arbitration must be “final and binding” and must be conducted “as set forth in A.R.S. § 33-1228 and the Condominium Termination Agreement.” The parties must therefore comply with A.R.S. § 33-1228(G)(1) and the Termination Agreement’s appointment mechanics for selection of a single arbitrator. The Court notes that the parties previously exchanged appraisals, and the remaining step is selection of the arbitrator required to determine fair market value.
3. **Notice of arbitration** On or before **March 26, 2026**, the parties must meet and confer in good faith by telephone, videoconference, or in person to select a single arbitrator to conduct the final and binding arbitration required by the Arizona Supreme Court’s clarification order and mandate. The Court clarifies that any contractual “Submission Deadline” tied to dates in 2019 is not workable in this posture and is replaced by the deadlines in this Order.
4. **Arbitrator selection and arbitration rules.** The arbitration must be conducted by an arbitrator affiliated with a national arbitration association and under that association’s rules, at the Association’s expense, as required by A.R.S. § 33-1228(G)(1). In selecting that arbitrator, the parties shall proceed consistently with the Termination Agreement to the extent practicable. The Court notes that Defendants previously identified Mark Lassiter as a proposed arbitrator when Plaintiffs were represented by counsel. The Court does not require the parties to select Mr. Lassiter, but expects the parties to consider that prior proposal in good faith along with any other qualified candidates. If the parties are unable to agree on an arbitrator **on or before March 26, 2026**, then thereafter each side may file a notice, not to exceed two pages and without exhibits, identifying up to three proposed arbitrators and briefly stating each candidate’s qualifications and arbitration-association affiliation. Any notice of proposed arbitrators must be filed on or before **April 6, 2026**. The Court will then select the arbitrator from the proposed list(s) or issue further orders as necessary to ensure prompt compliance with the mandate. Prior to including an individual on the list of proposed arbitrators, the parties shall ensure they

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have communicated with the individual and that the individual is willing and able to conduct the arbitration within the timeframe set forth herein.

5. **Completion deadline.** The parties must complete the valuation arbitration and obtain a written arbitration decision determining fair market value on or before **June 5, 2026**. The decision must be final and binding as directed by the Arizona Supreme Court.
6. **Joint status report.** On or before **May 8, 2026**, the parties must file a joint status report confirming the retention of the selected arbitrator, the arbitration association affiliation, and the rules to be used, and (e) the scheduled date for submission or hearing and the anticipated decision date. If the parties cannot file jointly, each side may file its own status report limited to the same items and limited to two pages.
7. **Stay and dismissal deadline.** The stay of this case is extended to enable the parties to complete arbitration in compliance with these orders until **June 18, 2026**. If an application to confirm the arbitration award or a motion to extend the stay for good cause is not filed by **June 18, 2026**, the remaining claims will be dismissed without prejudice and without further notice.
8. **Sanctions warning.** The Court expressly warns all parties that noncompliance with this Order, including failure to meet deadlines, failure to participate in good faith in selection of an arbitrator, or attempts to derail or expand the arbitration beyond valuation, will result in sanctions. Sanctions may include monetary sanctions, evidentiary sanctions, dismissal, entry of appropriate valuation-related relief consistent with the mandate, or other remedies within the Court's authority.
9. **Filing restriction.** Effective immediately, no party may file any further motions, documents, or pleadings in this case apart from the filings, motions, reports, or notices specifically authorized in this order without first obtaining leave of Court. Any request for leave must be made by a motion not exceeding two pages, must identify the proposed motion to be filed, and must explain why it is necessary in light of the Arizona Supreme Court's limitation of the remand to valuation and this Court's orders herein. If leave to file a motion is granted, the order will set a deadline for a response and reply. Any motions, pleadings, or other filings that do not comply with the Court's orders below will be summarily denied.