

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2024-090662

04/14/2025

HONORABLE ADAM D. DRIGGS

CLERK OF THE COURT
C. Curley
Deputy

VAL VISTA LAKES COMMUNITY
ASSOCIATION, THE

CHARLES B SELLERS

v.

BEN J RODRIGUEZ, et al.

BEN J RODRIGUEZ
1827 E CORTEZ DR
GILBERT AZ 85234

STEPHANIE L COX
1827 E CORTEZ DR
GILBERT AZ 85234
MEGGAN ELIZABETH MEDINA
CV ARBITRATION
JUDGE DRIGGS

RULING

The Court has reviewed the Plaintiff's Motion for Summary Judgment filed October 2, 2024, the Defendants' response titled Motion to Deny Plaintiff's Motion for Summary Judgment or in the alternative to Extend Time to Respond filed November 1, 2024, and Plaintiff's Reply in Support of Motion for Summary Judgment filed November 20, 2024.

Plaintiff asserts that they are entitled to a judgment in the amount of \$1,003.64, which represents past due assessments, service fees, late charges, and/or other fees.

Defendants assert that they are not in breach of contract, and that disputed issues of material fact exist. Defendants dispute portions of Plaintiff's Statement of Facts and raises questions related

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to whether counsel for Plaintiffs adequately communicated with them in their efforts to resolve the dispute and whether they provided sufficient information to Defendants. Defendants' response did not conform to Rule 56 of the Arizona Rules of Civil Procedure, which they appear to acknowledge, in that they requested additional time to respond so that they can retain an attorney.

On January 21, 2025, the Court issued a minute entry after it made a determination that it was reasonable to allow Defendants an additional 30 days to retain counsel and file a Response to the Plaintiff's Motion for Summary Judgment and/or attempt to resolve the dispute with Plaintiff without further increasing attorney's fees.

The Court also determined that if the Defendants were unable to retain counsel, they could still file a proper response in the form prescribed by Rule 56, including conforming with Rule 56(c)(3)(A), specifying: (i) the numbered paragraphs in the moving party's statement that are disputed; and (ii) those facts that establish a genuine dispute or otherwise preclude summary judgment in favor of the moving party. The Court provided additional time to file a response to Plaintiff's Motion for Summary Judgment and ordered that it be filed no later than February 21, 2025. Defendants did not file an additional response.

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 moving party meets its burden, the burden shifts to the nonmoving party to present sufficient evidence demonstrating the existence of a disputed fact. *Thruston*, 218 Ariz. 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.* "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 Sch. v. Reeves*, 166 Ariz. 301, 310 (1990).

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).

THE COURT FINDS that Plaintiff met their burden to demonstrate the absence of a genuine issue of material fact and explained why summary judgment is warranted. The Defendants' response disputed issues of material fact, but they did not meet their burden within the rules contemplated in Rule 56 of the Arizona Rules of Civil Procedure, despite the Court providing additional time to do so. Therefore,

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IT IS ORDERED that Plaintiff's Motion for Summary Judgment filed October 2, 2024 is granted.

IT IS FURTHER ORDERED that Plaintiff may submit a proposed form of Judgment for the Court's Signature with an application for attorney fees and statement of costs.

IT IS FURTHER ORDERED that Defendant may file any objections to the proposed judgment or application for attorney fees and statement of costs no later than 10 days after Plaintiff's proposed judgment is filed.