

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2019-096071

05/11/2020

HONORABLE TRACEY WESTERHAUSEN

CLERK OF THE COURT  
H. Bell  
Deputy

JOHN SANDERS, et al.

CHRISTOPHER D HILL

v.

SPRINGFIELD COMMUNITY ASSOCIATION      DEAN R COX

JUDGE WESTERHAUSEN

MINUTE ENTRY

**Order granting Defendant Springfield Community Association’s Motion to Dismiss; Order denying Plaintiffs’ Motion for Partial Summary Judgment; Order denying Plaintiffs’ “request for leave to amend the Complaint to state a claim for breach of contract,” without prejudice.**

Coeta Sanders (not a party in the instant matter) settled her personal injury claim against the Springfield Community Association (Springfield); Ms. Sanders suffered a trip-and-fall-with-injuries at the community owned and maintained by Springfield. Plaintiffs John Sanders, Lori Venberg and Robert Sanders (Ms. Sanders’s husband, daughter and son, respectively) then sued Springfield for their loss of consortium claims.

Pending before the Court is Springfield’s Motion to Dismiss Plaintiffs’ Complaint and related filings (Docket Items 5, 10 and 13). The Court grants Springfield’s motion, with an expanded Minute Entry of this Ruling to follow. The instant Minute Entry does NOT trigger any action dates for the parties regarding the Motion to Dismiss.

The Court denies Plaintiffs’ Motion for Partial Summary Judgment as moot in light of the above ruling, and that will also be the subject of the expanded Minute Entry. The instant Minute

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Entry does NOT trigger any action dates for the parties regarding the Motion for Partial Summary Judgment.

In Plaintiffs' Reply in Cross-Motion for Partial Summary Judgment re: Settlement of Claims (Docket Item 14), Plaintiffs' Reply concluded with Part C, "In the alternative, Plaintiffs request leave to amend the Complaint to state a claim for breach of contract." Item 14 at pp. 9-10. Item 14 did not refer in its title to the fact that it contained an attempted motion to amend the complaint in Part C. Springfield in its Response to Plaintiffs' Request for Leave to Amend [Their] Complaint [Item 15] criticized Plaintiffs for their failure to abide by the Rule 15 amendment procedure. Plaintiffs replied, "The alternative request [in Item 14] was essentially a judicially efficient avenue of allowing Ms. Sanders and Plaintiffs to pursue a breach of contract action against Defendant without initiating an entirely new action with the filing of a new complaint." [Item 16.]

Actually, the Rule 15 procedure is the judicially efficient mechanism to amend a complaint. First, a Rule 15 motion and related filings appear by title in the court docket, which is helpful to anyone who might access the docket. Second, it requires the parties – and the Court – to consider concrete proposed amendments, rather than hypothetical ones. For these reasons, as well as those Springfield set forth in its Response to Plaintiffs' Request for Leave to Amend [Their] Complaint" [Item 15], the Court denies Plaintiffs' "request for leave to amend the Complaint to state a claim for breach of contract," without prejudice.