

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2018-052668

05/24/2021

HONORABLE THEODORE CAMPAGNOLO

CLERK OF THE COURT
J. Escarcega
Deputy

ROWLEY FAMILY TRUST, THE, et al.

JUSTIN R COOLEY

v.

DOVE VALLEY RANCH COMMUNITY
ASSOCIATION, et al.

B AUSTIN BAILLIO

AMANDA E NELSON
CYNTHIA M SCHWARTZ
NO ADDRESS ON RECORD
JUDGE CAMPAGNOLO

MINUTE ENTRY

The Court has reviewed and considered Plaintiffs' Motion for Partial Summary Judgment as to Count Two of Plaintiffs' Complaint Only, Defendant Dove Valley Community Association's Response in Opposition thereto, Plaintiffs' Reply, the respective Statements of Facts, the declarations and exhibits attached to the foregoing pleadings, the Complaint and the First Amended Complaint, other relevant filings, and the applicable law.

In its Response, Defendant requested that summary judgment be granted in its favor as to Count Two. Defendant did not file a cross-motion for summary judgment. The Court will, therefore, not consider Defendant's request for affirmative summary judgment relief.

The parties did not request an oral arguments hearing, and the Court finds that oral arguments are not necessary for the Court to render a decision. *See* Rule 56(c)(1), ARIZ. R. CIV. P.; Maricopa County Local Rule 3.2(d).

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On summary judgment, the court must view the evidence and all reasonable inferences that such evidence will permit in the way that is most favorable to the party opposing summary judgment and must assume the truth of that party's allegations. *Esplendido Apartments v. Olsson*, 144 Ariz. 355, 361 (App. 1985). Summary judgment is inappropriate where the facts, even if undisputed, would allow reasonable minds to differ. *Nelson v. Phoenix Resort Corp.*, 181 Ariz. 188, 191 (App. 1994).

In this case, Plaintiffs contended that they are entitled to summary judgment on Count Two, alleging a breach of the escrow agreement. Taken in the light most favorable to Defendant, the Court finds that there are genuine issues of material facts that preclude the granting of summary judgment. Specifically, there are factual issues as to the steps taken or not taken by Defendant in regard to the escrow agreement. There are also factual disputes as to the alleged condition of the wall.

IT IS ORDERED denying Plaintiffs' Motion for Partial Summary Judgment as to Count Two of Plaintiffs' Complaint Only.