

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2021-018876

05/07/2024

HONORABLE SCOTT A. BLANEY

CLERK OF THE COURT  
P. McKinley  
Deputy

PAT MAH

JONATHAN A DESSAULES

v.

CANTERRA AT SQUAW PEAK  
CONDOMINIUM ASSOCIATION INC

HENRY NICKOLAS EICHER

JONATHAN D EBERTSHAUSER  
JACOB A KUBERT  
JUDGE BLANEY

**RULING**

The Court has reviewed and considered Defendant's *Motion to Strike Plaintiff's First Amended Complaint Filed February 23, 2024*, Plaintiff's *Response to Motion to Strike First Amended Complaint*, and the record in this case.

The parties are familiar with the facts and procedural posture of this case. In the interest of brevity, the Court will not restate the facts and history. To the extent necessary for context and clarity, the Court incorporates the language of its February 13, 2024 *Ruling on Plaintiff's Amended Motion for Leave to File First Amended Complaint* (filed 02/15/2024). Defendant now moves to strike Plaintiff's *First Amended Complaint*, arguing that it violates the February 13 *Ruling* by including the already-dismissed 1996 Amendment Claim and allegations in support thereof.

**THE COURT FINDS** that Plaintiff did, in fact, violate the Court's February 13, 2024 *Ruling*. The Court finds little merit to Plaintiff's argument that she interpreted the *Ruling* to only preclude *new* allegations in support of the 1996 Amendment Claim. The *Ruling* was clear: "The

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first amended complaint shall not contain the 1996 Amendment Claim or any allegations in support thereof, as the claim has been dismissed from this case.” *Id.* at pg. 3.

**THE COURT FURTHER FINDS**, however, that the record is sufficiently clear that the 1996 Amendment Claim has been dismissed – a fact that Plaintiff readily concedes on page 2 of her present *Response*. Plaintiff states, *inter alia*: “Plaintiff understood, and still does, that the dismissed balcony claim has been adjudicated. She has no intention of pursuing those dismissed claims, except perhaps in conjunction with a future appeal.” *Id.* at pg. 2:20-22. Defendant will suffer no material prejudice if the *First Amended Complaint* is adjudicated in its present form. Additionally, the Court is concerned that forcing Plaintiff to refile will further unnecessarily expand these proceedings and lead to increased costs.

**IT IS THEREFORE ORDERED** denying as moot Defendant’s *Motion to Strike Plaintiff’s First Amended Complaint Filed February 23, 2024*.

**IT IS FURTHER ORDERED** denying any relief not expressly granted herein.