

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2018-006748

06/10/2019

HON. ROSA MROZ

CLERK OF THE COURT  
D. Charbagi  
Deputy

BILTMORE GARDENS HOMEOWNERS  
ASSOCIATION

CHARLENE A CRUZ

v.

GREGORY SIMS

LONNIE J WILLIAMS JR.

JUDGE MROZ

MINUTE ENTRY

East Court Building– Courtroom 414

9:56 a.m. This is the time set a Telephonic Status Conference regarding Plaintiff's Motion to Set Status Conference filed on May 23, 2019. Plaintiff, Biltmore Gardens Homeowners Association is represented by counsel, Mark Sahl and Charlene A. Cruz. Defendant, Gregory Sims is represented by counsel, Lonnie J. Williams.

A record of the proceedings is made digitally in lieu of a court reporter.

Discussion held regarding Plaintiff's Motion to Set Status Conference filed on May 23, 2019.

According to Plaintiff, Defendant has removed the bamboo screening that is the subject of this lawsuit, and has installed the pre-approved screen. However, Plaintiff has discovered a metal structure with shelving that has plants and pots on it that acts as a wall on Defendant's patio that was previously hidden behind the bamboo screening. Plaintiff claims that Defendant has failed to

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act with good faith in entering into the settlement agreement as a result of this previously hidden metal structure. Plaintiff wants Defendant to submit the metal structure to the HOA Board for approval or install a larger pre-approved screen to hide the metal structure from view.

According to Defendant, the metal structure is not a wall but is simply a metal plant shelf. It has been on Defendant's balcony since Defendant lived there. Defendant asserts that he has already complied with the terms of the settlement agreement, and is waiting for Plaintiff to fulfill its end of the bargain.

The Court gives the parties its impression about this dispute. The Complaint is about an unapproved bamboo screen. The settlement agreement's terms are unambiguous. It required Defendant to "remove the Bamboo Screening" and "install[] a pre-approved Coolaroo exterior shades in Walnut ... or Sesame ..." Plaintiff admits that Defendant has done so. As far as the Court is concerned, Defendant has fulfilled his end of the settlement agreement. The Court will take no further action on this dispute.

10:09 a.m. Matter concludes.