

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2022-094990

06/01/2023

HONORABLE RODRICK COFFEY

CLERK OF THE COURT
K. Tiero
Deputy

LAKE BILTMORE VILLAGE OWNERS
ASSOCIATION

DANIEL S FRANCOM

v.

DESERT SHORES HOMEOWNERS
ASSOCIATION INC

NICHOLAS C NOGAMI

JUDGE COFFEY

MINUTE ENTRY

The Court has considered Plaintiff's Motion for Protective Order Regarding Deposition; Defendant's Response to that Motion; and Plaintiff's Reply in support of its Motion.

The Court agrees with Defendant – Rule 26(d) of the Arizona Rules of Civil Procedure sets forth the process for addressing discovery disputes in an expedited manner and it should have been followed. Had Plaintiff followed that procedure, this matter would have been addressed in a hearing more expeditiously and efficiently. Additionally, both parties would have saved some attorneys' fees because they each would have only written 1.5 pages of text rather than the number they wrote in which they provided the Court with significantly more information than what was needed for the Court to resolve their dispute. This is a straightforward issue – Defendant wants to take the deposition of a non-party who is receiving treatment for cancer. It was not necessary to provide the Court with 19 pages of briefing to explain that simple issue.

IT IS ORDERED that Defendant may not take the deposition of Beth Curlee until she or her physician declares that she is healthy enough to have her deposition taken. That having been said, the Court believes that if Curlee is healthy enough to participate in board meetings, she is

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probably healthy enough to have her deposition taken. If she participates in future board meetings, Defendant may follow the protocols of Rule 26(d) and request a status conference with the Court. Additionally, Plaintiff shall keep Defendant generally apprised of Curlee's condition. Under these unique circumstances, the Court will likely allow Defendant to take the deposition of Curlee after the deadline for completing all fact discovery.

IT IS FURTHER ORDERED denying Defendant's request to extend the deadline for completing a settlement conference and denying its request for attorneys' fees.