

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2025-012980

06/24/2025

HONORABLE RANDALL H. WARNER

CLERK OF THE COURT
L. Gilbert
Deputy

LISA MARX

LISA MARX
13610 N 111TH AVE
SUN CITY AZ 85351

v.

TARA CONDOMINIUMS ASSOCIATION, et al. CHARLES H OLDHAM

JUDGE WARNER

MINUTE ENTRY

Before the Court and fully briefed is Defendant Tara Condominium Association's May 28, 2025 Partial Motion To Dismiss Plaintiff's Claims That Are Derivative In Nature Pursuant To Rule 12(B)(6). The Motion argues that several of Plaintiff's claims are derivative. Oral argument is not necessary.

Plaintiff's claims against the Association are not derivative. A derivative action is brought in the name of and on behalf of a company against others, typically the company's officers or directors. Plaintiff's claims are all brought to assert her rights as a member against the Association under the CC&R's. To the extent she seeks damages, Plaintiff may only recover damages she herself has suffered and can prove. She may not recover damages for harm to the others or to the community in general.

To the extent Plaintiff seeks injunctive relief to compel the Association to take certain actions required by the CC&R's or other law, that is not a derivative claim. The Court does not decide—because the issue is not before it—whether any of Plaintiff's claims requires joining other members of the Association.

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At page 10 of the Motion, the Association argues that a claim for sanctions against two board members is derivative. The Motion only purports to be filed by the Association. *See* Page 1 (“Defendant, Tara Condominium Association (the ‘Association’) hereby requests. . . .”); Page 11 (“Defendant Tara Condominium Association hereby respectfully requests. . . .”). If those board members wish to seek dismissal, they may file a motion.

IT IS ORDERED denying Defendant Tara Condominium Association’s May 28, 2025 Partial Motion To Dismiss Plaintiff’s Claims That Are Derivative In Nature Pursuant To Rule 12(B)(6).