

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2017-094721

08/12/2019

HONORABLE DAVID J. PALMER

CLERK OF THE COURT  
K. Tiero  
Deputy

WOODMAR I V ASSOCIATION INC

CLINT G GOODMAN

v.

PAUL S RUBIN INC

JAMES A ROBLES JR.

JUDGE PALMER

MINUTE ENTRY

Defendant Paul Rubin Management (“PRM”) filed a Notice Requesting Assignment to Commercial Court on April 4, 2019. Plaintiff Woodmar IV Association (“Woodmar”) filed a Response to the Notice on May 14, 2019, with PRM filing a Motion to Strike the Response on May 17, 2019, and Woodmar a Reply on June 6, 2019.

IT IS ORDERED denying PRM’s Motion to Strike the Response to the Notice.

With respect to the request itself, the Court notes that the complaint in this matter was filed on July 31, 2017. Plaintiff points out that the current version of Rule 8.1(e) requires that, as of January 1, 2019, any such notice must be filed within 20 days of the requesting party’s appearance in the case, a point in time that occurred nearly 2 years ago. Plaintiff also argues that by the definitions of Rule 8.1, the case does not qualify for Commercial Court placement.

Under the version of Rule 8.1 in effect at the time of the filing of the complaint, a Plaintiff was required to designate the case as commercial court eligible at the time of its filing which did not happen. After that designation, the court or any party could file a motion within 20 days of the defendant filing an answer requesting reconsideration of whether the case belonged in commercial court. Moreover, it was contemplated that within certain time limits, either the court

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on its own or one of the parties could file a motion to transfer the case to commercial court on a motion filed under Rule 8.1(e)(3), which did carry time limits of 20 days after appearance, not unlike the current rule.

Notwithstanding the above paragraph, under the prior version of Rule 8.1 a “general civil court *MAY* order a case transferred to commercial court after the filing of a motion if it meets the criteria of the rule, but there is no requirement under the rule that he or she do so.

This court finds that the request for transfer of this matter to commercial is impermissibly late under either version of Rule 8.1 regarding transfers to Commercial Court.

Moreover, the decision to transfer the case to Commercial Court is discretionary with the court, provided this case type qualifies it for commercial court treatment.

Finding at a minimum, that the spirit of the applicable time requirements has not been satisfied, and given that this case is now over two years old with significant discovery having taken place, and still taking place, the court does not find it be appropriate at this time to transfer the matter to Commercial Court.

IT IS ORDERED denying Defendant’s Request to transfer this matter to Commercial Court.