

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2021-009865

08/11/2021

HONORABLE MARGARET R. MAHONEY

CLERK OF THE COURT
P. McKinley
Deputy

SANALINA HOMEOWNERS ASSOCIATION

KAYLEE IVY

v.

TRUMAN DAWN, et al.

TRUMAN DAWN
15139 W VENTURA ST
SURPRISE AZ 85379

JENNIFER DAWN
15139 W VENTURA ST
SURPRISE AZ 85379
JUDGE MAHONEY

STATUS CONFERENCE SET

East Court Building – Courtroom 411

10:39 a.m. This is the time set for virtual Order To Show Cause Return Hearing regarding Plaintiff's Request For Preliminary And Permanent Injunctions, filed 6/18/21. Plaintiff Sanalina Homeowners Association ("HOA") is represented by Counsel Kaylee Ivy. Defendant Truman Dawn is present on his own behalf. Defendant Jennifer Dawn is not present or represented. Appearances are virtual and/or telephonic via Court Connect/Microsoft Teams, except as noted below.

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

LET THE RECORD REFLECT Truman Dawn appears in person at the Courthouse and is joined to the proceeding telephonically from this Division's Jury Room.

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Mr. Dawn confirms he is representing himself today. Mr. Dawn also confirms that Jennifer Dawn is his wife and was not able to appear today due to the demands of her employment as a school teacher.

The Court explains to Mr. Dawn that he is not required to have a lawyer and is not prohibited from representing himself, but that a self-represented person cannot represent another so he cannot represent his wife at these proceedings. The Court confirms with Mr. Dawn that he is not a licensed attorney and informs him that the law requires the Court to hold all persons representing themselves to the same standard as a licensed attorney. The Court encourages Mr. Dawn to read and become familiar with the Arizona Rules of Civil Procedure and Evidence. The Court and Court staff are unable to assist or provide legal advice to him or his wife.

The Court counsels Mr. Dawn that he should not feel uncomfortable or concerned speaking or dealing directly with the attorney for the HOA. Court Rules require the parties to meet and confer in preparing certain filings.

The Court has reviewed Plaintiff's Verified Complaint, filed 6/17/21, and Plaintiff's Request For Preliminary And Permanent Injunction, filed 6/18/21.

Certificates Of Service, filed 6/21/21, indicate service was made timely upon Truman Dawn and Jennifer Dawn on 7/17/21.

The Court advises Mr. Dawn he was not required to appear in person today, and he could have appeared telephonically.

Plaintiff informs the Court that Defendants' Answer was due 8/6/21 but not yet filed. An Application and Affidavit For Entry Of Default were filed 8/11/21. Plaintiff's counsel advises that Defendants' default period to answer will expire 8/25/21.

Plaintiff requests a consolidated hearing and trial on the merits in 120 days if Defendants do not file an Answer timely.

The Court informs the parties that Judges do not handle defaults. This matter will be assigned to Commissioner Richard Albrecht for default proceedings.

The Court urges Mr. Dawn to stay in touch with Ms. Ivy in an attempt to reach a resolution.

At the Court's request, Mr. Dawn provides on the record all contact information for both Defendants as follows:

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Truman Dawn and Jennifer Dawn
15139 W. Ventura St.
Surprise, AZ 85379
Home phone: (623) 433-8723
Truman Dawn's cell: (562) 553-2017
Jennifer Dawn's cell: (562) 652-7937
Email for Truman and Jennifer Dawn: trumand@hotmail.com

The Court instructs Mr. Dawn that he must keep the Court and other parties/counsel updated regarding Defendants' current mailing address, email address and telephone numbers. If his or his wife's mailing address, email address or phone number changes at any time, Defendants must immediately inform the Court and opposing counsel. The Minute Entry from today's hearing will contain some helpful information to self-represented litigants and includes a link to a form to update contact information.

Discussion is held regarding the prudence and practicality of Plaintiff's request to set a consolidated hearing and trial on the merits in 120 days, as discovery, disclosure, briefing on any dispositive motions and subsequent oral argument cannot be accomplished within 120 days.

The Court explains to Defendant the nature of injunctions and the process of consolidating trial on the merits with an injunction hearing.

Discussion is held regarding Defendants conferring with Plaintiff's counsel. Attorney Ivy provides her contact information on the record as follows:

(480) 427-2898
kaylee.ivy@carpenterhazelwood.com

The Court will provide the parties an opportunity to confer and for Defendants to file an Answer if they choose to do so.

Accordingly,

IT IS ORDERED setting a **virtual** Status Conference on **8/27/21 at 10:30 a.m. (time allotted: 15 minutes)** in this Division.

IT IS FURTHER ORDERED no later than 8/25/21 at 10:00 a.m. the parties will email Court staff a joint update on the status of the parties' negotiations and all proposed deadlines needed.

Email addresses for Court staff:

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JA, Jennifer “JJ” Sommerville, Jennifer.Sommerville@jbazmc.maricopa.gov
and
Courtroom Assistant/Bailiff, Allison Gonzalez, Allison.Gonzalez@jbazmc.maricopa.gov

IT IS FURTHER ORDERED that any party who intends to ask the Court to vacate or reset any scheduled hearing shall notify this Division of said request as soon as possible, and absent extraordinary circumstances, in any event no later than two (2) full Court days before the scheduled proceeding. Reasons for such a request may include, but are not limited to, the movant intends to withdraw the motion which is set for hearing, the parties have resolved the issue, the motion has become moot, or scheduling conflicts have arisen.

PLEASE NOTE: The proceeding set above will be held via Court Connect (the Court’s video-conference/virtual hearing platform). An auto-generated email will or has been sent to counsel of record and any parties representing themselves who have a valid email address on file in this matter with information for joining the proceeding virtually. If for some reason you did not receive the email, you may join the proceeding using the following link: **Tiny URL:** <https://www.tinyurl.com/jbazmc-cvj09>, or you may appear via telephone by calling **1-917-781-4590**, conference ID# **867 494 109#**. For further information regarding Court Connect, please visit: <https://superiorcourt.maricopa.gov/court-connect/>

NOTE: All Court proceedings are recorded digitally and not by a court reporter. Pursuant to Local Rule 2.22, if a party desires a court reporter for any proceeding in which a court reporter is not mandated by Arizona Supreme Court Rule 30, the party must submit a written request to the assigned judicial officer at least ten (10) judicial days in advance of the hearing, and must pay the authorized fee to the Clerk of the Court at least two (2) judicial days before the proceeding. The fee is \$140 for a half-day and \$280 for a full day.

* * * *

PLEASE NOTE: This Division requires that all motions, responses, replies and other Court filings in this case must be submitted individually. Counsel shall not combine any motion with a responsive pleading. All motions are to be filed separately and designated as such. **No filing will be accepted if filed in combination with another. Additionally, all filings shall be fully self-contained and shall not “incorporate by reference” other separate filings for review and consideration as part of the pending filing.**

FOR ALL IN-PERSON APPEARANCES: Due to the spread of COVID-19, the Arizona Supreme Court Administrative Order 2021-109 and the Maricopa County Superior Court Administrative Order 2021-119 require all individuals entering a court facility in Maricopa

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County to wear a mask or face covering at all times that they are inside the facility. Any person who refuses to wear a mask or face covering as directed by court personnel will be denied access to the facility. If a participant is denied physical access to a courthouse for refusing to wear a face covering, the participant must contact the assigned judicial division to determine whether the person can participate in the proceeding using an audio or video connection.

ATTENTION SELF-REPRESENTED LITIGANTS: Unless an attorney files a notice that he or she represents a party, the person(s) not represented by an attorney will act as his or her own attorney. **The law requires the Court to hold all persons representing themselves to the same standard as a licensed attorney.** *Kelly v. NationsBanc Mortgage Corp.*, 199 Ariz. 284, 287 (App. 2001); *Homecraft Corp. v. Fimbres*, 119 Ariz. 299, 301 (App. 1978). Self-represented litigants are encouraged to review and become familiar with the Arizona Rules of Civil Procedure, paying particular attention to Rule 26. Please note that **only a licensed attorney may represent a corporation, LLC, or similar business entity in the Superior Court.** *Ramada Inns v. Lane & Bird Advertising*, 102 Ariz. 127, 426 P.2d 395 (1967).

Before the Judge can consider anything you send her, you must show her that you have given a copy of your request:

1. To the Clerk of the Court. The Clerk of the Court is a separately elected official. It is the Clerk's job to keep an independent record of everything that happens at the Court. The Court cannot act on a document that has not been made a part of that record; and
2. To every other party involved in the case. This allows all parties a fair chance to tell the Judge what they think before the Judge makes a decision.

Because of that, if you want the Judge to consider something you send her, you must file the original document with the Clerk of the Superior Court, email, mail or deliver a copy directly to this Division (that is, to the Judge, using her specific courtroom address), and email, mail or deliver a copy to all opposing parties. In addition, on each document, you must include a signed certificate that says whether you mailed or hand-delivered each copy, when you did so, and states the specific people and the specific addresses to which you emailed, mailed or hand-delivered each copy. If a party is represented by a lawyer, you must send or deliver the copy to the lawyer, not to the party. All proposed Orders submitted to this Division in hard copy form must include copies of the Order with self-addressed, stamped envelopes for all parties/counsel.

Do not mail or send papers for the Clerk or other parties to the Judge.

Information on filing documents with the Clerk of the Court can be found at:
<https://www.clerkofcourt.maricopa.gov/services/filings/filing-counters>

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Information on eFiling documents with the Clerk of Court can be found at:
<https://www.clerkofcourt.maricopa.gov/records/filings>

Additionally, information regarding eFiling in civil cases can be found at:
<https://www.azcourts.gov/efilinginformation>

If you are not represented by a lawyer, you must keep the Court updated regarding your current mailing address, email address and telephone number. If your mailing address, email address or phone number changes at any time, you must file a notice of change of address/phone number with the Clerk of Court. That form (general form – GN91f – Update Information on Address and/or Name with the Court) can be downloaded at no charge from the following website:

<http://www.superiorcourt.maricopa.gov/SuperiorCourt/LawLibraryResourceCenter/>

Alternatively, you may purchase printed forms at any of the following Superior Court Law Library Resource Center locations (Monday-Friday, 8:00 a.m. to 5:00 p.m.):

Downtown Phoenix Facility

East Court Building
101 W. Jefferson St.
Phoenix, AZ 85003-2243

Southeast Facility

222 E. Javelina Ave.
Mesa, AZ 85210-6201

Northeast Court Facility

18380 N. 40th Street
Phoenix, AZ 85032

Northwest Regional Center

14264 W. Tierra Buena Lane
Surprise, AZ 85374