

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2023-002759

08/15/2023

HONORABLE SUSANNA C. PINEDA

CLERK OF THE COURT  
N. Johnson  
Deputy

PAUL GOUNDER

PAUL GOUNDER  
3655 N 5TH AVE # 205  
PHOENIX AZ 85013

v.

ROYAL RIVIERA H O A

CHARLES D ONOFRY

JUDGE PINEDA

**MINUTE ENTRY**

On July 19, 2023, Plaintiff filed a Motion to Recuse this judicial officer. On July 26, 2023, the presiding civil judge denied his requests, returning this matter to this judicial officer. Five days later, on July 31, 2023, Plaintiff filed his second motion seeking to remove this judicial officer. Due to these motions, this Court was unable to rule on a number of pending motions. The presiding judge, in a minute entry dated August 10, 2023, has subsequently denied Plaintiff's requests that the case be reassigned to another judicial officer. As a result, this Court will now address the numerous motions filed by Plaintiff that could not be addressed previously. The Court notes that the Rulings below will address all motions currently pending and will moot Plaintiff's Motion entitled "Motion to Compel Judge Pineda, [sic] to rule on Motions Filed by Plaintiff on 5-19-2023. 6-29-2023 and 6-30-2023."

**"Motion to Vacate Nunc Pro Tunc Order"**

On April 20, 2023, Plaintiff filed his Amended Complaint. On May 10, 2023, Defendant's filed a Motion for Partial Dismissal of the Amended Complaint. When ruling on this motion, the Court inadvertently noted that the Motion for Partial Dismissal was filed on May 15, 2023. It corrected this error by minute entry on June 21, 2023. Plaintiff, misreading the correction, has

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2023-002759

08/15/2023

filed a Motion entitled “Motion to Vacate Nunc Pro Tunc Order” asking that the Court vacate its Nunc Pro Tunc Order issued on June 21, 2023. Defendant has responded.

**IT IS ORDERED** denying his Motion. The June 21, 2023 nunc pro tunc order appropriately corrected the date that Defendant’s filed their Motion for Partial Dismissal.

**“Motion to Vacate the Court’s June 9, 2023 Order”**

Plaintiff has also filed a “Motion to Vacate the Court’s June 9, 2023 Order” granting Defendant’s Motion for Partial Dismissal. In his Motion, Plaintiff alleges that the Court failed to consider his response and did not address his Motion to Strike. On August 10, 2023, the Court clarified it’s ruling by explaining that it considered Plaintiff’s pleading entitled “Objection to Dismiss and Motion to Strike” as his Response to Defendant’s Motion for Partial Dismissal. It further denied Plaintiff’s Motion to Strike as premature. In ruling on this current motion, the Court has also considered “Defendant’s Response to Motion to Vacate June 19, 2023 Ruling” which was filed on August 10, 2023. Because the Court clarified its June 9, 2023 Ruling to reflect the actual caption of Plaintiff’s opposition to Defendant’s Motion for Partial Dismissal of the Amended Complaint,

**IT IS ORDERED** denying Plaintiff’s Motion to Vacate the Court’s June 9, 2023 Order granting Defendant’s Motion for Partial Dismissal and any nunc pro tunc orders correcting that order.

**Misfiled Pleadings entitled “Motion to Object to Defendant’s Motion for Clarification on 06-29-2023 and Motion to Barring [sic] Any Further Motions” and “Motion for Order to Return Money Paid Under Illegal Name and to Exempt Plaintiff from Paying Condominium Fees”**

On June 30, 2023, Plaintiff filed a Motion for Default Judgment. Attached to his Motion, as noted by Judge Viola in her Minute Entry dated August 10, 2023, Plaintiff attached other Motions that appear to have not been docketed by the Clerk of the Court. Specifically, Plaintiff filed a Motion entitled “Motion to Object to Defendant’s Motion for Clarification on 06-29-2023 and Motion to Barring [sic] Any Further Motions” and a Motion entitled “Motion for Order to Return Money Paid Under Illegal Name and to Exempt Plaintiff from Paying Condominium Fees.” These two motions, which appear to have been attached to Plaintiff’s Motion for Default Judgment have not been docketed. Review of the docket shows that Plaintiff filed three motions simultaneously as one document. The clerk of the court has clarified that each efiled document must be filed separately and each has a separate service fee. The Court does not believe that Plaintiff was trying to avoid additional fees. However, now that he is on notice that each motion

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2023-002759

08/15/2023

filed must be done separately if he is using the efile system, the Court will reject any future filings that do not comply with the efilings requirements of the Clerk of the Court.

**IT IS ORDERED** that the Clerk of the Court docket each of the above-entitled motions that were attached to Plaintiff's June 30, 2023 Motion for Default separately so that the docket is clear.

**“Motion to Object to Defendant’s Motion for Clarification on 06-29-2023 and Motion to Barring [sic] Any Further Motions”**

With regards to Plaintiff's misfiled motion entitled “Motion to Object to Defendant's Motion for Clarification on 06-29-2023 and Motion to Barring [sic] Any Further Motions”, it appears that this pleading is Plaintiff's objection to Defendant's June 29, 2023 Motion for Clarification regarding the Court's inadvertent omission of certain counts from its June 9, 2023 ruling granting Defendant's Motion for Partial Dismissal. The Court notes that the typographical error was corrected on July 17, 2023. Defendant's Objection, which appears to challenge Defendant's ability to ascertain which counts of Plaintiff's Amended complaint were dismissed, would have not changed the Court's correction. The Court is permitted to correct a typographical error. See Ariz.R.Civ.P., Rule 60(a). The Court will take no further action on this motion as it is considered his responsive pleading to Defendant's Motion for Clarification.

**“Motion for Order to Return Money Paid Under Illegal Name and to Exempt Plaintiff from Paying Condominium Fees”**

The Court has reviewed Plaintiff's Motion as well as his Amended Complaint. It appears that Plaintiff seeks to raise a new claim not contained in his Amended Complaint. Specifically, he claims that the Defendant HOA has improperly collected HOA fees under a fictitious name. Because this claim is not raised in his Amended Complaint,

**IT IS ORDERED** denying Plaintiff's Motion. Should Defendant seek to amend his complaint, he must follow the Arizona Rules of Civil Procedure in doing so.

**“Motion for Default” and “Modified Motion to Strike Defendant’s Response on Plaintiff [sic] Motion for Default and Motion for Sanctions for violating Rule 11 of the Arizona Rules of Civil Procedure by filing late motion”**

As noted above, Plaintiff has filed a Motion for Default on June 30, 2023, alleging that Defendant has failed to answer his April 20, 2023 Amended Complaint. Defendant opposes the Motion as they filed a timely Rule 12 motion and the Court's ruling on that matter has been pending. The Court notes that the rulings made above have now fully addressed Defendant's Rule

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2023-002759

08/15/2023

12 motion, including all motions for clarification and Plaintiff's motions to vacate the Court's Ruling granting Defendant's motion. Plaintiff's Motion for Default, filed June 30, 2023, is premature as a Rule 12(b) motion is a responsive pleading precluding Plaintiff from proceeding by default.

**IT IS ORDERED** denying Defendant's June 30, 2023 Motion for Default.

On July 20, 2023, Plaintiff filed his "Modified Motion to Strike Defendant's Response on Plaintiff [sic] Motion for Default and Motion for Sanctions for violating Rule 11 of the Arizona Rules of Civil Procedure by filing late motion." Plaintiff alleges that Defendant's opposition to his Motion for Default was untimely and must be struck and that Defendant's did not use their correct name when responding. Plaintiff also seeks Rule 11 sanctions against Defendant. As noted above, Defendant's Motion for Default was premature, irrespective of the timeliness of Defendant's Opposition to his motion. As a result, Plaintiff has not been prejudiced.

**IT IS ORDERED** denying Plaintiff's "Modified Motion to Strike Defendant's Response on Plaintiff [sic] Motion for Default and Motion for Sanctions for violating Rule 11 of the Arizona Rules of Civil Procedure by filing late motion" in its entirety.