

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2010-006001

09/02/2011

HON. JOHN REA

CLERK OF THE COURT
J. Polanco
Deputy

WESTVIEW CROSSING HOMEOWNERS
ASSOCIATION

LYDIA P LINSMEIER
DOUGLAS M SHAMAH

v.

PETINA M JOHNSON, et al.

PETINA M JOHNSON
8918 W LA REATA
PHOENIX AZ 85037

VICTOR D JOHNSON
8918 W. LAREATA
PHOENIX AZ 85037

MINUTE ENTRY

East Court Building – Courtroom 414

11:02 a.m. This is the time set for Oral Argument on 1) Defendant's June 27, 2011 Request to Appoint Victor Johnson as Defendant and Counterclaimant in Place of Petina M. Johnson; 2) Defendant's June 29, 2011 Motion to Dismiss Pursuant to A.R.S. §33-1803; and 3) Plaintiff's July 15, 2011 Motion to Strike. Plaintiff is represented by counsel, Lydia P. Linsmeier and Douglas M. Shamah. Defendant Petina Johnson is not present nor represented by counsel. Victor Johnson, while not being a named Defendant in this matter, is present on his own behalf.

A record of the proceedings is made by audio and/or videotape in lieu of a court reporter.

Discussion is held regarding the Complaint filed in this matter and the proper parties to this action.

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THE COURT FINDS that as to Count 1 of the Complaint, the proper Defendant is Petina M. Johnson as trustee of the Petina M. Johnson Revocable Living Trust dated May 29, 2008.

THE COURT FURTHER FINDS that as to Count 2 of the Complaint, Victor Johnson as the current title holder of the property, shall be allowed to intervene as a Defendant to protect his own interest in the property.

Discussion is held regarding the Defendant's June 27, 2011 Request to Appoint Victor Johnson as Defendant and Counter Claimant in Place of Petina M. Johnson.

THE COURT FINDS that as to Count 1 of the Counterclaim, the proper Plaintiff is Petina M. Johnson as trustee of the Petina M. Johnson Revocable Living Trust dated May 29, 2008. There being no Count 2,

THE COURT FURTHER FINDS that as to Count 3 of the existing Counterclaim under A.R.S. §33-420(a), the proper Plaintiff is Petina M. Johnson as trustee of the Petina M. Johnson Revocable Living Trust dated May 29, 2008. There is currently no claim in the Counterclaim that seeks to remove the lien under A.R.S. §33-420(b).

THE COURT FURTHER FINDS that under Count 4 of the Counterclaim, the proper Plaintiff is Petina M. Johnson as trustee of the Petina M. Johnson Revocable Living Trust dated May 29, 2008.

LET THE RECORD REFLECT that as to all of the existing Counterclaims, Petina M. Johnson is the only party as trustee of the Petina M. Johnson Revocable Living Trust.

The Court advises the parties that if Petina M. Johnson fails to prosecute on the counterclaims, they may fall for lack of prosecution.

Plaintiff's counsel addresses the Court regarding the absence of the Defendant.

LET THE RECORD REFLECT that notice of this hearing was sent by the Court to Defendant Petina M. Johnson at her last address on file. The address is confirmed with Victor Johnson. Accordingly, this matter now proceeds.

Discussion is held regarding the Defendant's June 29, 2011 Motion to Dismiss. Although the Defendant is not present, the Court has considered the merits of the motion. Pursuant to A.R.S. §33-1803,

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IT IS ORDERED denying the Defendant's Motion to Dismiss.

IT IS FURTHER ORDERED denying the Plaintiff's Motion to Strike the Defendant's Motion to Dismiss.

Plaintiff's counsel advises the Court that they have not received a copy of the Trust as ordered by the Court on June 3, 2011.

LET THE RECORD REFLECT the Court provides a copy of the Trust to Plaintiff's counsel.

Brief discussion is held regarding the Defendant's July 20, 2011 Request for Discovery.

11:24 a.m. Matter concludes.

ALERT: Effective September 1, 2011, the Arizona Supreme Court Administrative Order 2011-87 directs the Clerk's Office not to accept paper filings from attorneys in civil cases. Civil cases must still be initiated on paper; however, subsequent documents must be eFiled through AZTurboCourt unless an exception defined in the Administrative Order applies.