

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2022-006622

10/11/2022

HONORABLE KATHERINE COOPER

CLERK OF THE COURT
C. Ladden
Deputy

EDET EFFIONG ASUQUO

KEVIN R HARPER

v.

LA FUENTE CONDOMINIUM ASSOCIATION

NICHOLAS C NOGAMI

JUDGE COOPER
DOCKET CV TX

RULING RE MOTION TO DISMISS

Pending before the Court is the fully-briefed Motion to Dismiss or in the Alternative Motion for a More Definite Statement filed July 29, 2022. The Court has reviewed the Motion, Response, and Reply as well as Defendant's Motion to Strike filed August 18, 2022 and Plaintiff's Response to the Motion to Strike.

The Motion to Dismiss is granted. The Complaint and Plaintiff's Response to the Motion to Dismiss make clear that Plaintiff's allegations in this matter relate to the same HVAC, roof, and wall complaints underlying Plaintiff's previous lawsuit against La Fuente Condominiums Association ("Association") in CV2019-015684 ("Prior Lawsuit"). The parties settled the Prior Lawsuit. On September 2, 2021, the Court found that the parties entered into an enforceable Settlement Agreement and entered the terms of the Agreement, including Plaintiff agreed "not to initiate or assert any future claims of any kind relating to the matters released by this Agreement" (§5) and that "[a]ny disputes regarding the terms of this Agreement, and the breach thereof, shall be decided by Judge pro tempore Gregory Gillis." The Parties further agreed to an "express waiver of the right to initiate suit or other action in connection with the terms and/or breach of this Agreement." (§12).

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The present lawsuit arises from the terms and/or alleged breach of the Settlement Agreement. Plaintiff waived the right to file suit for these grievances which must be decided by Judge Pro Tem Greg Gillis.

IT IS ORDERED dismissing the Complaint.

IT IS FURTHER ORDERED granting the Motion to Strike.

IT IS FURTHER ORDERED vacating Oral Argument set on October 12, 2022 at 9:30 a.m. in this division.

There being no issues or claims pending, **IT IS FURTHER ORDERED** that this is a final order pursuant to Rule 54(c).

/ s / KATHERINE COOPER

KATHERINE COOPER
JUDGE OF THE SUPERIOR COURT