

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2016-011505

11/19/2018

HONORABLE CONNIE CONTES

CLERK OF THE COURT  
K. Cabral/D Arrieta  
Deputy

DARRYL J ROBERTS, et al.

MARK BAINBRIDGE

v.

WINDY WALK HOMEOWNERS  
ASSOCIATION, et al.

MICHAEL H ORCUTT

LYNN M KRUPNIK  
JUDGE CONTES

**MINUTE ENTRY**

The court has considered the Motion for Rule 37(b) Sanctions for Failure to Comply with Court Order, filed September 7, 2018 on behalf of plaintiff; defendants' response thereto, filed September 26, 2018; and plaintiff's reply thereto, filed October 8, 2018. After considering what the parties have submitted, the court has concluded that the issue presented has been fully briefed and oral argument will not assist a decision. Rule 3.2(d), Superior Court Local Rules-Maricopa County.

First, discovery disputes are strongly discouraged. In the future, the parties are instructed to abide by the Expedited Procedure for Resolving Discovery and Disclosure Disputes set forth in Rule 26(d), Ariz. R. Civ. P., before filing any written motion to compel, motion for protective order, or any other motion related to discovery including a motion for sanctions. This procedure requires attachment of a good faith consultation certificate that complies with Rule 7.1(h), Ariz. R. Civ. P.

Second, the parties are urged to consider the risk that comes from not providing timely discovery responses as required by applicable rules and court orders, even if court intervention is

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not requested. Should this matter proceed to trial, the trier of fact may be permitted to consider that the failure to provide timely discovery impacts a party's credibility in other ways.

Finally, the court notes that these filings involve the second time that the court has had to review the defendants' failure to provide the same discovery. Defendants' contention that they have not failed to obey a court order to provide or permit discovery beyond a default deadline of thirty (30) days, and not until fifty (50) days following the court order, without communication or conferring or some form of professional courtesy, lacks merit. For the second time, the court grants plaintiff an entitlement to recovery of its reasonable attorneys' fees and costs incurred for having to pursue this Motion for Rule 37(b) Sanctions, but the court is not willing to take more time at this juncture of this civil action to resolve the amount of the award until submission of concluding documents, if necessary.

**IT IS THEREFORE ORDERED** granting in part plaintiff's Motion for Rule 37(b) Sanctions as provided herein but denying at this time the relief requested.