

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2025-007913

11/06/2025

HONORABLE RICHARD ALBRECHT

CLERK OF THE COURT
D. McNulty
Deputy

JOHN BALLARD, et al.

JACOB A KUBERT

v.

CARRIAGE SQUARE AT GAINNEY VILLAGE
HOMEOWNERS ASSOCIATION, et al.

WM MICHAEL YOHLER

MARY K CHAPMAN
NO ADDRESS ON RECORD
TYLER CHAPMAN
NO ADDRESS ON RECORD
COLBY MANAGEMENT INC
17220 N BOSWELL BLVD STE 140
SUN CITY AZ 85373
COMM. RICHARD ALBRECHT

MINUTE ENTRY

On September 25, 2025, this matter came before the Court for a default hearing. The Court, having determined that the claim was not based upon a sum certain, determined that an evidentiary hearing to prove damages was required. The Plaintiff demanded that a jury trial as to damages was required pursuant to Arizona Rules of Civil Procedure (Ariz. R. Civ. P.) 55(b)(2)(D).

Rule 55(b)(2)(D)(ii) states:

Hearings and Referrals. The court may conduct hearings or make referrals—preserving any right to a jury trial—when, to enter or effectuate judgment, it needs to:

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(ii) determine the amount of damages;

The Plaintiff contends that the demand for a jury trial pursuant to Rule 38, Ariz. R. Civ. P. survives the entry of default and mandates a jury trial on damages.

This Court disagrees. Once default is entered, the Defendant has admitted liability. There are no longer issues of fact for a jury trial to decide.

Arizona Courts emphasize that the default hearing on damages is a judicial determination, not a jury trial. *Tarr v. Superior Court*, 142 Ariz. 349 (1984), *Dungan v. Superior Court*, 20 Ariz. App. 289 (1973).

Rule 55(b)(2) is a preservation clause, which prevents a default from inadvertently stripping a jury right with respect to claims where liability has not been found. As such,

IT IS ORDERED that a Default Hearing will be scheduled before this Court to determine damages.

IT IS FURTHER ORDERED setting a virtual Default Hearing on **December 11, 2025 at 2:00 p.m.** (time allotted: two hours) in this Division via Microsoft Teams/Court Connect.

www.tinyurl.com/jbazmc-pcc07

You can also dial in using your phone (audio only).
+1 (917) 781-4590, Phone Conference ID: 604 064 885#

Commissioner Albrecht's division prefers video appearances through Court Connect and Microsoft TEAMS, if possible, as it ensures it is easier to know who is appearing at the hearing and being able to see the other parties reduces interruptions and delays. Additionally, appearing by video increases the chance that the Court can use features such as shared screens to show everyone exhibits or forms that may be helpful for the hearing. However, no party shall be penalized for appearing by phone. Whether parties appear by videoconference, phone, or a hybrid of the two, they should try as much as possible to contact the court from an area with no background noise as noise and echoes prevent the parties from hearing the proceedings in the courtroom and prevent the court from making a good record of the proceedings. The parties are especially discouraged from appearing virtually from an outdoor location.

IT IS FURTHER ORDERED that if either party has exhibits to be marked, copies of all exhibits shall be submitted online **by end of business December 8, 2025** to the Clerk of the Superior Court for marking at the following website:

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<https://www.clerkofcourt.maricopa.gov/services/exhibits-submission>. This webpage also provides instructions and guidance for electronic submission. In the event that a party is unable to access the internet to submit exhibits, they may provide them for marking at the Maricopa County Superior Court, East Court Building, 101 West Jefferson, Courtroom 513, Phoenix AZ 85003 **by end of business December 8, 2025**. If exhibits are submitted through the Division, they shall be marked numerically and consecutively. **Do not skip numbers. Numbers will not be skipped or saved in anticipation of additional exhibits to be submitted.** Additional exhibits, if necessary, may be marked during the course of the hearing. Exhibits shall be separated by a colored sheet of paper with the exhibit number written on front. Each exhibit shall be clipped or bound if too large to be stapled. The parties shall also provide a bench (paper) copy of their exhibits to this Division's inbox located in the East Court Building Suite #513.

IT IS FURTHER ORDERED that if either party wishes to have audio or video exhibit(s) marked, the parties shall provide those in a digital media format such as a flash drive or a CD, and deliver those to the Maricopa County Superior Court, East Court Building, 101 West Jefferson, Courtroom 513, Phoenix AZ 85003 for marking only **by end of business December 8, 2025**. The flash drive or cd will be marked as one exhibit. Please note that the parties will be responsible for presenting their exhibits at the hearing/trial. The Court will not play exhibits from the digital media devices for the parties. These exhibit(s) shall include the case number, party submitting the exhibit(s), the hearing date and the judicial officer's name. Any exhibit(s) that were already submitted through the Clerk of Court's online portal do not need to be included on the flash drive.

NOTICE: Exhibits submitted to the court for an evidentiary hearing, whether through hard copy or submitted electronically, that are marked as exhibits but are not offered into evidence at the hearing, will be destroyed following the hearing, unless a party requests that the evidence be returned at the conclusion of the hearing. Such requests must be filed with the Court and served on all parties in advance of the hearing or by no later than the conclusion of the hearing.

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.