

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2023-053163

12/13/2023

HONORABLE PETER A. THOMPSON

CLERK OF THE COURT
V. Felix
Deputy

GRAYHAWK COMMUNITY ASSOCIATION

KATHRYN A BATTOCK

v.

ADAM DALEN

ADAM DALEN
NO ADDRESS ON RECORD

JUDGE THOMPSON

MINUTE ENTRY

This case was placed on the Dismissal Calendar on October 4, 2023 for dismissal on December 4, 2023 “without further notice unless, prior to that date, a Joint Report and Proposed Scheduling Order is filed, Judgment is entered, a Stipulation For Dismissal is filed, or the dismissal deadline is otherwise extended by the Court for good cause shown”. None of those events took place and the case was dismissed appropriately on December 4, 2023.

Plaintiff is correct that Rule 38.1(d)(1), Arizona Rules of Civil Procedure provides that the Clerk of Court must place a civil action on the Dismissal Calendar if 210 days have passed since the action was commenced and the parties have not filed a Joint Report and a Proposed Scheduling Order under Rule 16(c), ARCP. Dismissal follows in 60 days if the case remains on the Dismissal Calendar. However, this sets the outside limits for Court intervention when a case is not prosecuted under the rules and does not account for the Court’s management of its own calendar by issuance of minute entry orders as was the case here. Rule 38 does not prohibit the Court from issuing orders to administer the docket and enforce Rule 16 deadlines by placing cases on the Dismissal Calendar for failure to prosecute in conformity with the rules. If Rule 38 was read to prohibit courts from issuing orders to manage docket deadlines before the 210th day mark, case management would be crippled and the deadlines of Rule 16 would be meaningless.

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Rule 16, Arizona Rules of Civil Procedure sets forth the process for timely management of cases, including the time for scheduling and completing the Early Meeting of Parties or Counsel, the submission of a Joint Report to the Court and Proposed Scheduling Order. This Court, as most every other Civil Division requires those processes be completed as required under Rule 16, Arizona Rules of Civil Procedure by issuance of a Minute Entry Order setting the case for dismissal unless those timely case processing deadlines are met. That Order was not followed here and the case was properly dismissed.

Had the Motion been timely submitted the Court would have granted the request. Strict adherence to the rules would mandate a different result but would not promote the interests of either party as the action would be refiled and result in further delay.

IT IS ORDERED vacating the dismissal of this case entered December 4, 2023;

IT IS FURTHER ORDERED granting Plaintiff's demand for continuance on the Dismissal Calendar through March 13, 2024.