

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2025-007913

09/25/2025

HONORABLE RICHARD ALBRECHT

CLERK OF THE COURT  
D. McNulty/L. Palmert  
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  
JOSEPH A BROPHY  
COMM. RICHARD ALBRECHT

MINUTE ENTRY

Courtroom 513-VC-CV East Court Building

1:32 p.m. This is the time set for a virtual Default Hearing. Plaintiffs John Ballard and Claudia Ballard are present and represented by counsel, Jacob A Kubert. Defendant Carriage Square at Gainey Village Homeowners Association is represented by counsel, Joseph A. Brophy. No other parties are present.

A record of the proceedings is made digitally in lieu of a court reporter.

Counsel for Plaintiff makes statements to the Court.

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Counsel for Defendant makes statements to the Court.

Counsel for Defendant requests that today's Default Hearing be continued as a damages hearing.

Counsel for Plaintiff requests a jury trial regarding damages. Discussion is held.

The Court shall consider referring this matter back to the presiding Judge for trial by jury.

1:50 p.m. Matter concludes.

**LATER:**

This matter came before the Court on the basis of a Motion for Default Judgment. The Plaintiff contends that the damages are liquidated and therefore a default hearing is not necessary. The Court and Defendant do not agree and believe damages in this matter need to be proved through a default hearing.

Plaintiff's claim that his damages are liquidated and a sum certain is based upon the opinion of an appraiser in one unsworn appraisal of a loss in value of the Plaintiff's home. The Court does not believe that this constitutes a "sum certain" for the purposes of Rule 55(b)(1). This Court will require a damages hearing pursuant to Rule 55(b)(2) to establish damages.

Plaintiff further contends that with respect to a damages hearing he is entitled to a jury trial citing Rule 55(b)(2)(d). The parties shall brief the issue of a Plaintiff's right to a jury trial in a Default Damages hearing for the purpose of determining the amount of damages. The parties shall submit briefs to the Court no later than **October 17, 2025** and shall not exceed ten pages.