

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2017-011347

06/12/2018

HONORABLE DANIEL J. KILEY

CLERK OF THE COURT
C. Mai
Deputy

MARK D GOLDMAN

DENNIS I WILENCHIK

v.

MARK KRISTOPHER SAHL, et al.

JOHN R CUNNINGHAM

JEFFERSON T COLLINS

MINUTE ENTRY

The Court has reviewed and considered the Motion for Summary Judgment (“Motion”) filed by Defendants Brown Community Management, Inc., The Villas at Copperwynd Association, Ken Flynn, and Linda Flynn (collectively, the “Remaining Defendants”); the Remaining Defendants’ Statement of Facts in Support of Their Motion for Summary Judgment; the Response to Defendants Brown Community Management, Inc., The Villas at Copperwynd Association and Ken and Linda Flynn’s (First) [*sic*] Motion for Summary Judgment (“Response”) filed by Plaintiff Mark D. Goldman (the “Plaintiff”); the Plaintiff’s Statement of Facts in Response to Defendants Brown Community Management, Inc., The Villas at Copperwynd Association and Ken and Linda Flynn’s (First) [*sic*] Motion for Summary Judgment; the Plaintiff’s Statement of Facts in Response to Defendants Brown Community Management, Inc., The Villas at Copperwynd Association and Ken and Linda Flynn’s (First) [*sic*] Motion for Summary Judgment; and the Remaining Defendants’ Reply in Support of Their Motion for Summary Judgment. No party has requested Oral Argument.

In their Motion, the Remaining Defendants assert numerous responses to the Plaintiffs’ claims. The Court need only address one, because it is dispositive.

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The Remaining Defendants argue that the “absolute privilege” set forth in Section 586 of the Second Restatement of Torts and *Green Acres Trust v. London*, 141 Ariz. 609, 688 P.2d 617 (1984), “applies to the communications between Mr. Goldman and Mr. Sahl” because those communications were “preliminary to judicial proceedings.” Motion at p. 5. Noting that Defendants Mark Sahl and Carpenter, Hazlewood, Delgado, & Bolen, LLP (collectively, the “Attorney Defendants”) had already filed a Motion for Summary Judgment of their own (the “Attorney Defendants’ Motion for Summary Judgment”) raising this same argument, the Remaining Defendants assert that, “for the same reasons claimed by Defendants Sahl and Carpenter Hazlewood, Mr. Sahl’s communications with the Association, including communication[s] provided to all of its members, are afforded the absolute privilege.” *Id.*

In his Response, the Plaintiff “incorporates by reference” the response and supporting materials he submitted in opposition to the Attorney Defendants’ Motion for Summary Judgment. Response at p. 2.

Since then, the Court has granted the Attorney Defendants’ Motion for Summary Judgment, holding that the disputed communications are within the scope of the absolute litigation privilege discussed in Section 586 of the Second Restatement of Torts and *Green Acres*. See Minute Entry of May 30, 2018 at pp. 10-16. For the same reasons that the Court granted the Attorney Defendants’ Motion for Summary Judgment,

IT IS ORDERED granting Motion for Summary Judgment filed by Defendants Brown Community Management, Inc., The Villas at Copperwynd Association, Ken Flynn, and Linda Flynn.