Clerk of the Superior Court
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SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2024-005545 12/31/2025

HONORABLE DAVID MCDOWELL

CLERK OF THE COURT
A. Patel
Deputy

SHEILA JANISCH FRANK M FOX

v.

SCOTTSDALE MOUNTAIN COMMUNITY ASSOCIATION CHARLES H OLDHAM

JUDGE MCDOWELL

ACTION REQUIRED

Pending before the Court is Plaintiff's May 14, 2025 *Motion for Leave to Amend the Complaint;* Defendants' June 3, 2025 *Response in Opposition to Plaintiff's Motion for Leave to Amend Complaint;* and Plaintiff's June 6, 2025 *Reply to Defendant's Response to Plaintiff's Motion for Leave to Amend Complaint.*

Plaintiff's Motion does not meet the requirements of Rule 15(a) which states:

> A party moving for leave to amend a pleading must attach a copy of the proposed amended pleading as an exhibit to the motion. **The exhibit must show the respects in which the proposed pleading differs from the existing pleading by bracketing or striking through the text to be deleted and underlining the text to be added.**

[Emphasis added]. The exhibit to Plaintiff's Motion does not contain any bracketing, striking, or underlining. The Exhibit also contains blanks on pages 18 and 20 which must be filled in.

IT IS ORDERED Plaintiff shall file an *Amended* motion for leave by **January 14, 2026** with a proposed amended complaint attached as an exhibit which complies with Rule 15(a).

IT IS ORDERED Defendant shall file a response by **January 21, 2026** which focuses on the proposed amendment.

IT IS ORDERED any reply shall be filed by **January 26, 2026.**

The Court is unpersuaded that any prejudice resulted from Plaintiff's delay in seeking to file an amended complaint particularly in light of the need for an amended scheduling order because of the lengthy stay in this case and the transfer of the case to this Division. Further there are methods to ameliorate the few minor prejudices stated by Defendant other than denying leave to amend.

Also pending before the Court is Defendant's May 23, 2025 *Motion to Strike Exhibits from the Record and Docket* and Plaintiff's June 2, 2025 *Response to Motion to Strike Exhibits.* During the December 4, 2025 hearing, Defendant indicated it intended to file a reply in support of the Motion, but Judge Moskowitz indicated the issue raised by this motion was resolved – he stated the exhibits previously submitted which had been obtained by improperly issued subpoena had been sealed and would remain sealed.

At the conclusion of the December 4, 2025 hearing, Judge Moskowitz listed the motions which were outstanding. His list did not include the motion to strike exhibits. Despite Judge Moskowitz's statement, on the record in open court on December 4, 2025, that any exhibits which had previously been sealed would remain sealed, both parties listed this motion in their December 19, 2025 list of pending motions.

The Court finds the May 23, 2025 *Motion to Strike Exhibits* resolved by Judge Moskowitz's December 4, 2025 Ruling. **IT IS ORDERED** affirming Judge Moskowitz's ruling that any exhibits previously submitted to the Court which had been sealed would remain sealed and would only be unsealed upon order of the Court. Further as Judge Moskowitz ruled, Plaintiff is not permitted to use any documents obtained as a result of improperly issued subpoena but Plaintiff is permitted to use the same information if obtained by a properly issued subpoena or from another source.