Clerk of the Superior Court
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SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2024-005545 01/26/2026

HONORABLE DAVID MCDOWELL

CLERK OF THE COURT
K. Johanson
Deputy

SHEILA JANISCH

FRANK M FOX

v.

SCOTTSDALE MOUNTAIN COMMUNITY ASSOCIATION

CHARLES H OLDHAM

KENNETH L FIELDS

JUDGE MCDOWELL

ORDER APPOINTING DISCOVERY MASTER

Pending before the Court *Plaintiff's Motion regarding Allocation of Special Master Fees* filed December 19, 2025; *Scottsdale Mountain Community Association's Response to Plaintiff's Motion regarding Allocation of Special Master Fees* filed January 16, 2026 and *Plaintiff's Reply in Support of Motion to Appoint Discovery Special Master* filed January 22, 2026.

The January 5, 2026 Minute Entry asked the parties to address two issues (1) the availability of the individuals proposed as discovery master, and (2) allocation of the cost. Only Defendant addressed the availability of the nominated individuals.

As this Court indicated in the January 5, 2026 Minute Entry, Judge Moskowitz stated on the record during the December 4, 2025 hearing, the cost of the special master would be allocated equally subject to reallocation by the special master. Judge Moskowitz did not say the Court would reallocate the cost of the special master in advance (the parties should be aware that a Minute Entry is not a verbatim report of the hearing – if the parties wish to obtain a recording of the hearing, a recording is available). Nothing in the parties' filings has persuaded this Court to alter the decision of Judge Moskowitz.

IT IS ORDERED the fees and costs of the special discovery master shall be equally divided between the parties and the special discovery master is given authority to reallocate the fees and costs as he deems fit.

IT IS ORDERED appointing Hon. (ret.) Kenneth Fields as the special discovery master in this matter pursuant to Rule 53 Ariz.R.Civ.Proc. The authority of the special master is limited to addressing and resolving discovery and disclosure disputes and to assess or reassess the special discovery master's fees and costs concerning those discovery/disclosure disputes.

IT IS ORDERED the special discovery master shall file a report with the Court no more frequently than every 60 days and the reports shall address any discovery/disclosure disputes raised by the parties during the previous 60 days, the resolution thereof, and if fees or costs were reallocated the amount reallocated and the party responsible. If no discovery dispute has been presented within the prior 60 days, no report need be filed.

IT IS ORDERED each party will provide the special discovery master with a copy of this Court or Judge Moskowitz's rulings on any previously addressed discovery/disclosure issues.

IT IS ORDERED the Court reserves to both parties the ability to seek reallocation, at the final resolution of this matter, of any portion of the special discovery master's fees or costs assessed to that party.

Advice to the parties: The Court is unimpressed and unpersuaded by hyperbole, disparaging the other party or counsel, and sweeping generalizations. The parties are **strongly** encouraged to limit the statements and allegations in their filings to factual statements supported by admissible evidence.