Clerk of the Superior Court
*** Electronically Filed ***
04/22/2026 8:00 AM

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2024-005545
CV 2026-002480
CV 2026-002331

04/20/2026

HONORABLE DAVID MCDOWELL

CLERK OF THE COURT
A. Patel
Deputy

SHEILA JANISCH

FRANK M FOX

v.

SCOTTSDALE MOUNTAIN COMMUNITY ASSOCIATION, et al.

CHARLES H OLDHAM

BILL DUBE
NO ADDRESS ON RECORD
YURI ELLIS
NO ADDRESS ON RECORD
TOM MCVAY
NO ADDRESS ON RECORD
LONNIE MUTO
NO ADDRESS ON RECORD
EDEN COHEN
DOCKET CV TX
JUDGE GORDON
JUDGE MCDOWELL
JUDGE PINEDA

**RULING ON MOTION TO CONSOLIDATE**
**ACTION REQUIRED**

Pending before the Court are motions to consolidate three cases including:

- March 6, 2026 *Scottsdale Mountain Community Association's Motion to Consolidate* filed in CV2024-005545.
- March 6, 2026 *Scottsdale Mountain Community Association's Motion to Consolidate* filed in CV2026-002331.

- March 6, 2026 *Scottsdale Mountain Community Association's Motion to Consolidate related cases* filed in CV2026-002480.
- March 23, 2026 *Creed's Response to Motion to Consolidate* filed in CV2024-005545.
- March 23, 2026 *Plaintiff's [*Sheila Janisch*] Response to Motion to Consolidate* filed in CV2024-005545.
- April 5, 2026 *Defendants' Reply in Support of Motion to Consolidate* filed in CV2026-002331.
- April 5, 2026 *Defendants' Reply in Support of Motion to Consolidate* filed in CV2026-002480.

The first filed case (CV2024-005545) was brought by Sheila Janisch against Scottsdale Mountain Community Association. Through subsequent amendments that case now includes Lonnie Muto, Bill Dube, Yuri Ellis, and Tom McVay.

The second filed case (CV2026-002480) was brought by Ms. Janisch against Lonnie Muto, Tom McVay, Bill Dube, and Yuri Ellis.

The third filed case (CV2026-002480) was brought by David Creed (Ms. Janisch's significant other) against Lonnie Muto, Tom McVay, Bill Dube, and Yuri Ellis.

The first filed case began with claims for breach of fiduciary duty, negligence, and breach of contract arising out of alleged violations and alleged unfair enforcement of Association rules. Through amendments it now includes claims for injunction, declaratory relief, breach of the covenant of good faith and fair dealing, intentional infliction of emotional distress, discrimination, tortious interference with contract, Libel, Defamation, Misappropriation of Assets, Disclosure of confidential information, and statutory violations of A.R.S. §33-1805. Included in the allegations are that the individual defendants used Association resources to defame Ms. Janisch.

The second filed complaint alleges that the same individuals now included as defendants in the first-filed case defamed Ms. Janisch by circulating a letter to the Association members (the same letter at issue in the first-filed case). Ms. Janisch alleges this letter also interfered with her business expectancy and caused emotional distress.

The third filed complaint concerns allegations that the same individuals named as defendants in the first and second filed cases by circulating the same letter addressed in the first and second filed cases defamed Mr. Creed, caused a false light invasion of his privacy, and intentionally inflicted emotional distress.

While there are aspects of the first-filed case that do not involve the claims stemming from the letter sent to the homeowners, now that Plaintiff has inserted the issues concerning that letter into the first filed case, the Court finds that all cases now involve substantially similar facts. Plaintiffs raise a concern that the first-filed case has been pending for some time and discovery should be concluded in that matter before it is concluded in the subsequent cases. The Court is uncertain that

is accurate. The second amended complaint in the first-filed case was filed in February and the parties are still engaged in discovery – in fact the Court just received an updated joint report and scheduling order indicating that discovery would not be concluded until the end of 2026.

Certainly Mr. Creed does not need to participate in the discovery concerning Ms. Janisch's claims related to violations and enforcement of the Association rules, but it is duplicative and a waste of everyone's resources to require both Ms. Janisch and Mr. Creed to engage in duplicate discovery to get the same information from Defendants and for Defendants to respond to two sets of discovery on the same issue. Further consolidation minimizes the expense to the parties and the inconvenience to any witnesses deposed because they will not have to sit for more than one deposition about the same issues.

The Court finds these three cases involve common issues of fact. Further not consolidating these cases could result in inconsistent and contradictory results. The Court reserves the right to bifurcate the trials on the claims against the Association from the claims against the individual defendants if after all discovery is complete bifurcation appears workable.

**IT IS ORDERED** consolidating cause numbers CV2024-005545, CV2026-002331, and CV2026-002480 under cause number **CV2024-005545** for all further proceedings.

**IT IS FURTHER ORDERED** transferring cause number CV2026-002331 and cause number CV2026-002480 to the Honorable David McDowell for all further proceedings.

**ACTION REQUIRED**

The two latter filed cases have been pending for three months, all defendants have been served and Answers have been filed. Pursuant to Rule 16, the Court should be receiving Joint Reports and scheduling orders in those cases any day.

**IT IS ORDERED** no later than **May 8, 2026** the parties shall conduct their early meeting in these consolidated cases **AND** submit a single joint report and proposed scheduling order addressing this consolidated case. The Court will not accept a separate report from one party, or each party.

**IT IS ORDERED** deeming the March 31, 2026 *Rule 16 Joint Report* and the March 31, 2026 *Plaintiff's Rule 16 Report* moot. The Court will take no action on these filings because both should be addressed in the joint report and proposed order due no later than May 8, 2026.

The parties' March 31, 2026 filings indicate there is a dispute about the scope of the discovery master's authority. The parties need to review the appointment order dated January 27, 2026. That order states:

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.

Plaintiff contends the discovery master was appointed to address "forensic issues". The Court is uncertain what that term is intended to mean, but nowhere in the January 27, 2026 appointment order does the Court use that term.