Clerk of the Superior Court
*** Electronically Filed ***
05/28/2026 8:00 AM

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2024-005545 05/27/2026

HONORABLE DAVID MCDOWELL

CLERK OF THE COURT
A. Patel
Deputy

SHEILA JANISCH

FRANK M FOX

v.

SCOTTSDALE MOUNTAIN COMMUNITY ASSOCIATION, et al.

EDEN COHEN

D&C MATERIALS-CSC
JUDGE MCDOWELL

RULING ON MOTION TO SEAL

Pending before the Court is Scottsdale Mountain Community Association's March 13, 2026 *Defendants' Motion to Seal and to Enforce the Court's August 20, 2024 Order regarding Confidential Medical Documents*[1], Ms. Janisch's April 3, 2026 *Plaintiff's Memorandum of Points and Authorities in Opposition to Motion to Seal or Strike Exhibits A, B, and C;* and the April 13, 2026 *Defendant's Reply in Support of Motion to Seal, to Enforce Prior Court Order, and for Sanctions.*

Defendants request the records related to medical appointments of Josh Bolen be sealed. This is not the first time the medical information about Mr. Bolen has been brought before the Court in this case. This issue came before Judge Moskowitz in August 2024 and Judge Moskowitz ordered that the documents "shall not be further disclosed or utilized in any way in this case, and shall be kept strictly confidential by the parties, absent a prior (sic) further order of this Court."

On February 15, 2026 Plaintiff filed a Reply in support of a renewed motion to disqualify defense counsel and attached the medical information of Mr. Bolen, without seeking leave of court or filing

[1] The March 13, 2026 *Motion* was not electronically filed and a copy of the Motion was not delivered to the Judge as required by Maricopa County Local Rule 3.1(e).

under seal the documents Judge Moskowitz previously declared confidential.[2] Plaintiff argues Mr. Bolen waived any privacy objections by contesting Mr. Bolen's interactions with Plaintiff. The Court notes Mr. Bolen is not a party to this case and is not an attorney of record in this case. Plaintiff cites no statute or case law to support her position that another attorney in the firm retained by Defendants waives the physician/patient privilege or any right of confidentiality in his medical records by attesting to the amount of contact he had with Plaintiff. Plaintiff's argument is unpersuasive.

The Court has already addressed the renewed motion to disqualify defense counsel and found the records did not establish the events for which they were submitted and the Court will not respond to Plaintiff's raising those issues again in the Response.

Due to the private and sensitive medical information contained in the documents lodged by Plaintiff with the February 15, 2026 Reply, the Court finds an overriding interest supports sealing the medical records of a non-party to this action and the Court finds Defendants have overcome the right of public access to Mr. Bolen's medical records. The Court finds Mr. Bolen would be prejudiced if the document were not sealed; the proposed restriction on public access is no greater than necessary to preserve the confidentiality of the information contained in the document, and no reasonable less restrictive alternative is available.

IT IS ORDERED designating the 22nd, 24th, and 26th pages of the February 15, 2026 *Plaintiff's Reply in Support of Plaintiff's Renewed Motion to Disqualify and for Sanctions (*Docket ID #18917288*)* as sealed documents.

IT IS ORDERED the three pages identified above shall be sealed and shall only be opened upon further order of the Court.

IT IS ORDERED affirming Judge Moskowitz's August 2024 ruling regarding use of Mr. Bolen's medical records.

Defendants seek sanctions against Plaintiff due to the improper filing of the documents (failing to follow Rule 5.4) and for filing the documents despite Judge Moskowitz's instructions. The Court finds sanctions appropriate.

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[2] Plaintiff did include a page labeled "Notice of Lodging Non-Public Exhibit" and that page preceded Mr. Bolen's medical records. However, that page and the medical records were not filed under seal as provided in Ariz.R.Civ.Proc. 5.4. and the medical records of Mr. Bolen were filed as a publicly accessible document.

IT IS ORDERED awarding sanctions in the sum of $400.00 against Plaintiff and in favor of Defendants for failing to follow the correct procedure for filing documents that Judge Moskowitz previously determined should not be "utilized in any way".

PLAINTIFF'S NOTICE OF FAILURE OF PROOF AN OBJECTION TO INFLAMMATORY RHETORIC

On April 18, 2026 Ms. Janisch filed *Plaintiff's Notice of Defendants' Failure of Proof and Objection to Inflammatory Rhetoric.*

In this filing, Ms. Janisch objects to Defendants use of inflammatory labels and rhetoric related to Plaintiffs' counsel. The Court previously warned the parties against use of hyperbole, accusations, and innuendo about improper conduct. However, the warning indicating sanctions would be imposed for use of those things in the future was not issued until April 14, 2026 – the day after Defendants filed the Reply.

The Court declines to impose sanctions based upon the April 13, 2026 filing because it was filed prior to the issuance of the order. However, in the future similar language as that used by Defendants would be sanctionable.

MOTION TO AMEND

Pending before the Court is Plaintiff Sheila Janisch's March 31, 2026 *Motion for Leave to File First Amended Complaint.* This motion was filed in CV2026-002331 before that matter was consolidated into this matter (CV2024-005545). After consolidation, Ms. Janish filed another motion to amend on May 10, 2026 which appears to consolidate the claims against the defendants in CV2024-005545 with the claims against the defendants in CV2026-002331. Therefore, the Court considers the March 31, 2026 motion to amend in CV2026-002331 moot.

MINUTE ENTRY REGARDING COMPREHENSIVE DISCOVERY REPLY

The Court is in receipt of a May 20, 2026 *Plaintiff's Comprehensive Discovery Reply and Briefing for June 22, 2026 Oral Argument.* The Court assumes this filing was intended to be directed to the Special Discovery Master since all discovery issues in this matter are to be handled by him and because this Court has no oral argument set for June 22, 2026.

The Court will take no action on this filing, unless the Special Discovery Master requests court intervention.

ACTION REQUIRED

Three cases have been consolidated, but the parties continue to use the wrong caption. The correct caption for this consolidated case should be:

SHEILA JANISCH, a single person,

Plaintiff,

vs. *CV2024-005545*
(consolidated)

SCOTTSDALE MOUNTAIN COMMUNITY ASSOCIATION; LONNIE AND JANE MUTO; BILL DUBÉ; YURI ELLIS; TOM MCVAY; JOHN and JANE DOES I-X; BLACK CORPORATIONS I-X; and XYZ CORPORATION I-X,

Defendants.

SHEILA JANISCH,

Plaintiff,

(CV2026-002331)

vs.

LONNIE MUTO, TOM MCVAY, BILL BUBE, and YURI ELLIS; JOHN and JANE DOES I-X; BLACK CORPORATIONS I-X; and XYZ CORPORATION I-X,

Defendant.

DAVID CREED,

Plaintiff, *(CV2026-002480)*

vs.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2024-005545 05/27/2026

LONNIE MUTO, TOM MCVAY, BILL BUBE, and YURI ELLIS; JOHN and JANE DOES I-X; BLACK CORPORATIONS I-X; and XYZ CORPORATION I-X.,

Defendant.