Clerk of the Superior Court
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SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2024-005545 06/26/2026

HONORABLE DAVID MCDOWELL

CLERK OF THE COURT
K. Johanson
Deputy

SHEILA JANISCH FRANK M FOX

v.

SCOTTSDALE MOUNTAIN COMMUNITY ASSOCIATION, et al. EDEN COHEN

JUDGE MCDOWELL

RULING ON MOTION TO AMEND

Pending before the court is the May 10, 2026 *Plaintiff's Motion for Leave to File Third Amended and Supplemental Complaint;* the May 27, 2026 *Defendants' Response Opposing Plaintiff's Motion for Leave to Amend Third Complaint;* and a June 2 and June 3, 2026 *Plaintiffs' Reply in Support of Motion for Leave to File Third Amended and Supplemental Complaint.*

The court is concerned Plaintiffs have overlooked Rule 8, Ariz.R.Civ.Proc., which dictates that a pleading contain a "short and plain statement of the claim". Plaintiffs appear to be filing increasingly lengthy complaints to state every fact and allegation supporting a claim when factual detail belongs in a disclosure statement not a pleading. Plaintiffs may also benefit from being reminded that pleadings are not evidence and will not be shown to the jury or used to establish the existence of any fact at issue.

The court also has concerns that Plaintiffs may be adding claims that have no legal basis. Defendants argue the community manager, named in the Third Amended Complaint, owes no fiduciary duty to homeowners. However, Plaintiff also argues that the manager owes a fiduciary duty to the association. In addressing a motion to amend, the court will not evaluate what the amending party is ultimately able to prove. While the court has concerns, the court cannot find that the additions made in the Third Amended Complaint would be futile. The court does caution

Plaintiffs to carefully consider the causes of action included in the filed version of the third amended complaint and to consider whether there is a legal basis for each cause of action. Plaintiffs are permitted to omit (omit but not add) causes of action before filing the third amended complaint without seeking additional leave of the court. However, if a cause of action is included in the Third Amended Complaint that is filed and that cause of action is not supported by Arizona law, the court will award attorney fees to Defendants for defending against an unsupported claim.

It is disheartening that amendments to pleadings are still being made in a case filed in 2024, but the additional suits filed in 2025 and the consolidation of those cases has had an affect on the timing in this matter. At this time, the court does not find the third amendment was motivated by delay or was unduly prejudicial to Defendants.

IT IS ORDERED granting Plaintiffs' *Motion for Leave to File Third Amended Complaint.*