

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2017-003266

01/04/2018

HONORABLE HUGH HEGYI

CLERK OF THE COURT  
S. Brown  
Deputy

LAKESWOOD COMMUNITY ASSOCIATION,  
THE

QUINTEN T CUPPS

v.

STEPHEN S EDWARDS, et al.

STEPHEN S EDWARDS  
16030 S 36TH ST  
PHOENIX AZ 85048

AMANDA BREEMES  
JOHN L CONDREY  
CHRISTOPHER M HANLON  
MAUREEN MULVANEY  
16026 S 36TH ST  
PHOENIX AZ 85048  
REBECCA K O'BRIEN  
DAXTON R WATSON  
STEVEN LONG

MINUTE ENTRY

The Court has considered the following motions, which are ripe for determination, and which were taken under advisement at the Court's December 1, 2017 scheduling status conference.

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1. The July 5, 2017 Motion to Dismiss Counter-Plaintiff's Complaint (hereafter referred to as the "Smith and Sears Motion") filed by Counter Defendants Sandra Smith and Vicki Sears;
2. The Lakewood Community Association and David Lunn's July 5, 2017 Motion to Dismiss Counter-Plaintiff's "Cross-Complaint" (the "Association's Motion");
3. Cross-Defendants Cupps' July 5, 2017 Motion to Dismiss Crossclaimant's Cross-Complaint (the "Cupps Motion");
4. Cross Defendant Maureen Mulvaney's July 6, 2017 Joinder to the Association's July 5, 2017 Motion to Dismiss (the "Mulvaney Motion");
5. Counter Plaintiff Edwards' ("Edwards") July 19, 2017 Motion to Consolidate (the "Motion to Consolidate");
6. Edwards' July 27, 2017 pleading, the caption of which begins "Rule 37(a)(2) Motion to Compel Attorney Larry Langley to Produce Billing Records" filed November 6, 2017 (hereafter referred to as the "Edwards Motion to Compel");
7. Counter-Defendant Gardner's July 31, 2017 Motion to Dismiss (the "Gardner Motion to Dismiss");
8. Edwards' August 8, 2017 Motion for Partial Summary Judgment ("Edwards' Motion for Summary Judgment"); and
9. Third Party Defendant Jeffrey L. Smith's August 10, 2017 Motion to Strike and/or Motion to Dismiss Edwards' First Amended Cross-Complaint with Prejudice (the "Smith Motion to Strike").

Further, on November 28, 2017 the Court denied Defendant Edwards' July 13, 2017 motion (the "Motion for Stipulated Judgment"), the complete caption of which is as follows:

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Counter Defendant

MOTION FOR EXPEDITED  
HEARING for STIPULATED  
JUDGEMENT AGAINST EACH  
THE LAKEWOOD COMMUNITY  
FOR \$150,000 Sandra Smith  
\$25,000 Vicky Sears \$25,000.00 and  
Quinten Cupps \$50,000.00 for their  
700 DAYS OF FRAUD UPON THIS  
COURT AND TO STRIKE THE  
LAKEWOOD COMMUNITY  
PLEADING's and all Defendant's  
PLEADINGS TO DISMISS

Attorney

**Quinten T. Cupps AZ Bar #024680  
Disbarment for his MULTIPLE  
COUNTS OF FRAUD TO THIS  
COURT, WILLFULL  
MISCONDUCT AND VIOLATION  
OF ETHICAL RULES (ER 1-4)**

**Injunction for USC Alum 2 time  
Lakewood Board member and  
Licensed Attorney David W. Lunn to  
Be removed permanently from Board  
Member of The Lakewood  
Community for Fiduciary Failures**

[sic] On the Court's motion,

**IT IS ORDERED**, setting aside the Court's November 28, 2017 order to the extent it concerns the Edwards Motion for Stipulated Judgment.

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**The Edwards Motion for Stipulated Judgment**

The Edwards Motion for Stipulated Judgment asks that the Court deny all Counter Defendants' motions to dismiss "as it [sic] is hideously without merit and opposing counsel does know this fact regardless of what was recently filed with this court." Motion for Stipulated Judgment at 2:4-9. The motion is a rambling and largely incoherent diatribe against the Counter Defendants. It contains improper references to, and attaches improper copies of, compromise negotiations. In violation of Rule 7.1(a), Rules of Civil Procedure, it largely fails to cite to legal authority for the procedures it proposes or the relief it seeks. The sole exception is an inapposite reference to "Rule 20" (apparently of the Rules of Civil Procedure), which Mr. Edwards asserts gives the Court "full authority to commence this rule without any further delay." Motion for Stipulated Judgment at 5:23-27.

Good cause not appearing,

**IT IS ORDERED**, denying the Motion for Stipulated Judgment. Although it is somewhat difficult to determine what Mr. Edwards requests, his unsubstantiated allegations are not a sufficient basis for the Court to deny the other parties' motions to dismiss, nor is it a sufficient response to their motions. Mr. Edwards' request for an expedited hearing is denied. The Court finds a hearing would not assist it in making the necessary determinations. A "hearing" is not a procedurally proper manner for Mr. Edwards to ask the Court to enter judgment against the Counter Defendants. A stipulated judgment is possible only with a stipulation from the other party. None is proffered with the motion. No adequate basis is stated to strike any pleading by any party. This Court does not have the authority to disbar any attorney. No basis is stated to remove Mr. Lunn from the Plaintiff's board of directors.

**The Smith and Sears Motion**

This motion asks that the Court dismiss the Counter Complaint (the "Counter Complaint") filed by Defendant Stephen S. Edwards ("Edwards") on June 14, 2017 pursuant to Rule 12(b)(6), Rules of Civil Procedure, pursuant to the doctrine of res judicata, because they are absolutely immune from the suit, and for failure to meet what they refer to as "the pleading standard". No response has been received by the Clerk or this Division. Sandra Smith and Vicki Sears filed a July 24, 2017 Reply in support of their motion, indicating they had received a response. However, it is a party's obligation

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to file any pleadings they wish the Court to consider with the Clerk of the Court. As a practical matter, the Court has no other way to know that a document has been filed or to become aware of its contents. Mr. Edwards has failed to comply.

**IT IS ORDERED**, deeming Mr. Edwards' failure to file a response as his consent to the granting of the Smith and Sears Motion.

**IT IS FURTHER ORDERED**, granting the Smith and Sears Motion.

**The Association's Motion**

The Association's Motion also claims the Counter Complaint is barred by the doctrine of res judicata and absolute immunity. It further claims the Counter Complaint is a violation of this Court's March 21, 2016 order (the "2016 Order") in Edwards v. Lakewood Community Association, Maricopa Cause Number CV2015-009257 (the "2015 Action"), which, among other things, ordered that, "Mr. Stephen S. Edwards shall cease filing these repetitious Complaints." 2016 Order at 2.

Mr. Edwards' response to the motion, such as it is, is found in his Motion for Stipulated Judgment, a portion of which caption is "MOTION ... TO STRIKE THE LAKEWOOD COMMUNITY PLEADING's and all Defendant's PLEADINGS TO DISMISS". [Sic] It offers no direct response to the claims contained in the Association's Motion.

Good cause appearing,

**IT IS ORDERED**, granting the Association's Motion for the reasons stated in the motion itself and in the Association's July 18, 2017 reply in support of its motion. Further, because Mr. Edwards has failed to specifically respond to the Association's claims, **IT IS ORDERED**, deeming his failure to appropriately respond as his consent to the granting of the Association's Motion.

**The Cupps Motion**

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The Cupps Motion asks that the Court dismiss the Counter Complaint against Cross Defendant Katherine Cupps be dismissed because the Counter Complaint has failed to allege any wrongdoing by her.

**IT IS ORDERED**, granting this request. The Court notes that the Counter Complaint does not appear to identify who Katherine Cupps is or any relationship she may have to anyone involved in the wrongdoing it alleges.

The motion continues by arguing that there is no claim for civil conspiracy in and of itself, citing Savard v. Selby, 19 Ariz. App. 514 (1973), and because an unlawful purpose or means is required to accomplish such a future, citing Uvodich v. Arizona Board of Regents, 9 Ariz. App. 400 (1969). The motion argues that no allegations have been made in the Counter Complaint to unlawful purposes or means. Cupps Motion at 5:13-6:14.

The Court is unable to discern a specific response to these claims in the Motion for Stipulated Judgment. To the extent the Court is able to understand Mr. Edwards' claims relating to this issue in his Counter Complaint, it appears he alleges that several Counter Defendants, including Mr. Cupps, have engaged in a civil conspiracy by attempting to make him pay attorney's fees and to foreclose on the Association's lien against his home in this action. Counter Complaint at 14-15. The Court finds that these claims are insufficient to state a claim for civil conspiracy.

As to the Counter Complaint's claims of fraud, the Cupps Motion argues that Mr. Edwards has failed to state any claim of fraud against Mr. Cupps with particularity, as required by Rule 9(b), Rules of Civil Procedure, and that other required elements of fraud are not pled. However, it appears that the Counter Complaint does, in fact, specifically allege that Mr. Cupps misrepresented whether a particular payment by Mr. Edwards had been received. Counter Complaint at 13 ¶ 10.

**IT IS ORDERED**, granting the Cupps Motion in part and dismissing Katherine Cupps from this action.

**IT IS FURTHER ORDERED**, dismissing the Counter Complaint's claims against Mr. Cupps as to civil conspiracy.

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**IT IS FURTHER ORDERED**, denying the Cupps Motion insofar as it asks to dismiss the Counter Complaint's allegations of fraud against Mr. Cupps.

**The Mulvaney Motion**

The Mulvaney Motion seeks to join in the Association's Motion to Dismiss. Mr. Edwards has failed to respond to the motion.

**IT IS ORDERED**, deeming Mr. Edwards' failure to respond as his consent to the granting of the Mulvaney Motion.

**IT IS FURTHER ORDERED**, granting the Mulvaney Motion.

**The Motion to Consolidate**

Mr. Edwards' July 19, 2017 Motion to Consolidate requests consolidation of this matter with Maricopa Cause Number CV2014-092726 (the "2014 Matter"). The Associations' August 2, 2017 Response to the Motion to Consolidate argues that the 2014 Matter has already been concluded, as does the Cupps' July 31, 2017 response and, by reference, the Smith and Sears August 3, 2017 response. No reply has been received. Because the 2014 Matter is already concluded, and for the additional reasons stated by the responses referenced in this paragraph,

**IT IS ORDERED**, denying the Motion to Consolidate.

**The Edwards Motion to Compel**

The Edwards Motion to Compel asks the Court to compel Attorney Larry Langley to comply with a subpoena for Mr. Cupps billing records that the motion claims to have been served on Mr. Langley on an unspecified date in July in an unspecified year. The motion notes that Mr. Langley has stated that he does not have the records in his possession, but that, "It is very easy to obtain these records and ... these records are available to all 1700 Homeowners of the Lakewood Community ..."

Mr. Langley's July 25, 2017 response includes his sworn declaration and states that the requested records are not in Mr. Langley's possession, custody or control, are subject to numerous privileges, and that Mr. Langley is collaterally estopped from again requesting

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these records, the request for which was denied by Judge David Udall in the 2014 Matter. No reply has been received.

The Court credits Mr. Langley's response. For the reasons stated in Mr. Langley's response,

**IT IS ORDERED**, denying the Edwards Motion to Compel.

**Gardner's Motion to Dismiss**

The Gardner Motion to Dismiss asks that Defendant Michael Gardner be dismissed because of issue and claim preclusion. No response has been received.

The Court finds good cause to grant the motion on its merits. Further, the Court construes Mr. Edwards' failure to respond as his consent to the granting of the motion.

**IT IS ORDERED**, granting the Gardner Motion to Dismiss.

**Edwards' Motion for Summary Judgment**

The Edwards Motion for Summary Judgment requests judgment against Counter Defendants Quinten Cupps for alleged ethical violations, Sandra Smith for allegedly providing a false declaration to this Court, Vicky Sears for allowing Ms. Smith to file the declaration, Michael Gardner for a share of a wall, Maureen Mulvaney for a share of a wall, the Association for wasteful expenditure of funds, and Jeffrey Smith for alleged fraud on the Court. Defendants Lunn and the Association filed an August 18, 2017 response, as did Defendants Smith and Sears on September 11, 2017. As Defendants Smith and Sears' response notes, the motion is unsupported by any evidence, and fails as a matter of law.

**IT IS ORDERED**, denying Edwards' Motion for Summary Judgment.

**The Smith Motion to Strike**

The Smith Motion to Strike asks that the Court strike Mr. Edwards' August 17, 2017 First Amended Cross Complaint (the "Amended Cross Complaint") as to its claims against Mr. Smith for Mr. Edwards' failure to obtain the Court's permission pursuant to

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Rule 15(a), Rules of Civil Procedure, because Mr. Smith's statements complained of were privileged, and because the claims fail as a matter of law. No response has been received.

The Court finds good cause to grant the motion on its merits. Further, the Court construes Mr. Edwards' failure to respond as his consent to the granting of the motion.

**IT IS ORDERED**, granting the Smith Motion to Strike and dismissing Mr. Edwards' claims against Mr. Smith contained in the Amended Cross Complaint.

**Further**

The prevailing parties shall lodge forms of judgment within 30 days to the extent entry of judgment is appropriate.

The Court is unaware of any motions ripe for decision that have not been decided at the present time. If any party believes such motions exist, the party shall file an appropriate notice or motion with the Court.