

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2016-094391

06/02/2017

COMMISSIONER MARGARET BENNY

CLERK OF THE COURT
T. Haaser
Deputy

LAVEEN MEADOWS HOMEOWNERS
ASSOCIATION

CHAD M GALLACHER

v.

CARLOS MEJIA, et al.

JONATHAN A DESSAULES

MINUTE ENTRY

Courtroom 303 - SEA

10:26 a.m. This is the time set for Default Hearing regarding damages and the Motion to Set Aside Default the Response and the Reply and the Motion to Strike, the Response and the Reply. Counsel Brian Morgan and William Nikolaus are present on behalf of the Plaintiff Laveen Meadows Homeowners Association, Inc. Counsel Jacob Kubert appears on behalf of the Defendant Carlos Mejia. No one else appears.

A record of the proceeding is made digitally in lieu of a court reporter.

Arguments are heard regarding the Motion to Strike portions of Defendants' Reply to Defendants' Motion to Set Aside Default.

IT IS ORDERED granting the Motion to Strike.

Arguments are heard regarding the Motion to Set Aside Default.

IT IS ORDERED denying the Motion to Set Aside Default.

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THE COURT FINDS that Mr. Mejia was personally served on May 11, 2016, but failed to file an Answer. He did communicate with Plaintiff's counsel regarding the lawsuit. The Application for the Entry of Default was filed on December 8, 2016. The default became effective. Mr. Mejia filed his Answer May 14, 2017, which was well after the default to become effective.

THE COURT FURTHER FINDS that Mr. Mejia is in default. The Court does not find excusable neglect in his failure to file an Answer. The information presented to the Court was provided through affidavits. Mr. Mejia indicated in his affidavit that he did not understand the mailer due to not speaking the English language. However, the Court finds that he acted and made contact with Plaintiff about the lawsuit and made two offers. This second offer was accepted. However, the Court finds that he did not respond after his offer was accepted. Only after time was give to Defendant to respond did Plaintiff file the Application for Default and still no Answer was timely filed. Mr. Mejia indicated that he had someone in his family that could help him interpret and failed to do so.

THE COURT FURTHER FINDS that Mt. Mejia has not shown excusable neglect and the default shall continue to stay in effect.

As Mr. Mejia is contesting the amount of damages owed,

IT IS ORDERED setting an Evidentiary Hearing regarding the damages on **June 20, 2017 at 10:00 a.m. (2 hours allotted)**, in this Division, 222 E. Javelina Avenue, Courtroom 302, Mesa, AZ 85210.

IT IS FURTHER ORDERED any evidence intended to be submitted as exhibits at the time of the Evidentiary Hearing must be brought to **Courtroom 303 on or before June 13, 2017**. Exhibits are to be separated by a colored sheet of paper or by a divider sheet along with an attached cover sheet listing the description of the exhibits. No duplicate exhibits shall be presented for marking. If either party fails to comply with the steps for marking exhibits, that party's exhibits may be precluded from being marked for the hearing.

NOTE: All exhibits must be hand-delivered to this Division's Judicial Staff at Courtroom 303. Please call (602)506-3915 between the hours of 8:30 a.m. to 12:00 p.m. and 1:30 p.m. to 4:30 p.m. to arrange for pick up from Judicial Staff. Any exhibits dropped off in the Commissioner's mail box or at Court Administration without prior arrangements with this Division will be rejected.

11:08 a.m. Matter concludes.

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LATER

On Court's own motion,

IT IS ORDERED that the **case will remain on the dismissal calendar** for an additional ninety days from today's date until **Thursday, August 31, 2017**.

NOTE: All court proceedings are recorded by audio and video method and not by a court reporter. Pursuant to Local Rule 2.22, if a party desires a court reporter for any proceeding in which a court reporter is not mandated by Arizona Supreme Court Rule 30, the party must submit a written request to the assigned judicial officer at least ten (10) judicial days in advance of the hearing, and must pay the authorized fee to the Clerk of the Court at least two (2) judicial days before the proceeding. The fee is \$140 for a half-day and \$280 for a full day.