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7 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**
8 **IN AND FOR THE COUNTY OF MARICOPA**

9
10 Lisa Marx
11 Plaintiff,

Case No. CV 2025-012980

12 vs.

**MOTION TO VACATE ORDER ON
ATTORNEY FEES**

13 Tara Condominiums Association, Inc.,
14 Mark Gottmann and Dennis Anderson
15 Defendant.

Honorable Randall H. Warner

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18 **I. MOTION TO VACATE ORDER FOR ATTORNEYS' FEES AND COSTS**

19 Plaintiff Lisa Marx, appearing pro per, respectfully moves this Court pursuant to Rule
20 60(b), Arizona Rules of Civil Procedure, to vacate the portion of the Court's July 31,
21 2025 Minute Entry Order (docketed August 5, 2025) that directs Defendants Mark
22 Gottmann and Dennis Anderson to lodge a form of judgment and file any application
23 for attorneys' fees or costs within 30 days. This Motion is based on the following
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1 Memorandum of Points and Authorities, the attached Proposed Order, the docket in
2 this case, and the complete files and records herein.

3 4 **II. MEMORANDUM OF POINTS AND AUTHORITIES**

5 **1. FACTUAL AND PROCEDURAL BACKGROUND**

6 A review of the case docket reveals the following relevant history:
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- 8 • On April 11, 2025, Plaintiff filed the original Complaint (Docket Entry: COM -
9 Complaint).
- 10 • On July 15, 2025, Defendants Mark Gottmann and Dennis Anderson filed a
11 Motion to Dismiss (Docket Entry: MTD - Motion To Dismiss).
- 12 • On July 31, 2025 (docketed August 5, 2025), the Court issued a Minute Entry
13 Order granting the Motion to Dismiss, dismissing all claims asserted against
14 Defendants Gottmann and Anderson in the original Complaint, and further
15 ordering that said Defendants lodge a form of judgment and file any application
16 for attorneys' fees or costs within 30 days (Docket Entry: 019 - ME: Ruling).
- 17 • On August 10, 2025, Plaintiff filed a Motion for Partial Reconsideration of the
18 July
19 31, 2025 Ruling (Docket Entry: MFR - Motion For Reconsideration).
- 20 • On August 14, 2025, the Court issued a Minute Entry Ruling, which did not
21 vacate or modify the dismissal (Docket Entry: 019 - ME: Ruling).
- 22 • On August 15, 2025, Plaintiff filed the First Amended Complaint (Docket Entry:
23 AMC - Amended Complaint).

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- On August 25, 2025, Defendants filed a Motion to Strike Portions of the Amended Complaint (Docket Entry: MOT - Motion).
 - On September 4, 2025, Defendants Gottmann and Anderson filed an Application for Attorneys' Fees and Costs, along with supporting documents, pursuant to the July 31, 2025 Order (Docket Entries: AAF - Application For Attorney Fees; ASR - Affidavit in Support of Attorney Fees; SOC - Statement Of Costs).

7

8 The First Amended Complaint, filed on August 15, 2025, supersedes the original

9 Complaint in its entirety. As a result, the original Complaint is no longer operable,

10 rendering the July 31, 2025 dismissal Order – and the directive therein allowing for an

11 application for attorneys' fees and costs – moot and subject to vacatur under Rule 60(b),

12 Ariz. R. Civ. P.

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III. LEGAL ARGUMENT

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15 **A. The First Amended Complaint Supersedes the Original Complaint, Rendering the**

16 **Original Complaint Functus Officio and Inoperable.**

17 Under well-established Arizona law, the filing of an amended complaint supersedes

18 the original complaint, which then becomes functus officio (of no further effect or

19 authority). *Mohave Concrete & Materials, Inc. v. Scaramuzzo*, 154 Ariz. 28, 29-30, 739

20 P.2d 1345, 1346-47 (App. 1987) (citing *Campbell v. Deddens*, 21 Ariz. App. 295, 518 P.2d

21 1012 (1974)). In *Mohave Concrete*, the Arizona Court of Appeals expressly held that

22 "[w]hen [a party] filed an amended complaint, such pleading superseded [the] original

23 complaint which then became functus officio." *Id.* at 30, 739 P.2d at 1347 (quoting

24 *Campbell*, 21 Ariz. App. at 297, 518 P.2d at 1014) (internal citations omitted). The court

1 explained that the amended complaint "took the place of the original," and "all
2 subsequent pleadings are based on the amended complaint." Id.

3
4 Applying this logic here, Plaintiff's First Amended Complaint, filed on August 15, 2025,
5 superseded the original Complaint filed on April 11, 2025. The original Complaint is
6 now functus officio and inoperable. The Court's July 31, 2025 Order dismissed claims
7 asserted in the original Complaint against Defendants Gottmann and Anderson.

8 However, because the original Complaint no longer governs the case, the dismissal
9 Order – premised solely on the inoperable original Complaint – lacks a valid basis and
10 should be vacated insofar as it authorizes an application for attorneys' fees and costs.

11 The directive for fees and costs was tied directly to the dismissal of claims in the now-
12 superseded original Complaint, and with the original Complaint rendered functus
13 officio, there is no longer a foundation for such an award at this stage.

14 The Mohave Concrete case further illustrates this principle through analogous
15 reasoning. In that case, the defendant filed a counterclaim in response to the original
16 complaint but did not replead it in response to the amended complaint. The trial court
17 struck the counterclaim as abandoned, relying on the supersession doctrine from
18 Campbell. *Mohave Concrete*, 154 Ariz. at 30, 739 P.2d at 1347. However, the appellate
19 court reversed, holding that the counterclaim survived because it was not required to
20 be replead; the supersession of the complaint did not automatically extinguish prior
21 pleadings unless explicitly required by rule. Id. at 30-31, 739 P.2d at 1347-48. The logic
22 underscores that an amended complaint resets the operative pleading landscape,
23 making prior versions inoperable and requiring the court to reevaluate orders tied to
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1 superseded pleadings. Here, the dismissal and fees directive were tied to the original
2 Complaint, which is now inoperable, necessitating vacatur.

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4 **B. Arizona Law Establishes That There Can Be Only One Operable Complaint at a**
5 **Time in a Lawsuit.**

6 Arizona case law consistently holds that there can be only one operative complaint at a
7 time, and an amended complaint renders prior versions null and void. See, e.g., *Kloehn*
8 *v. Prendiville*, 154 Ariz. 156, 159, 741 P.2d 317, 320 (App. 1987) (amended complaint
9 "supersedes the original complaint, which becomes functus officio"); *Campbell v.*
10 *Deddens*, 21 Ariz. App. 295, 297, 518 P.2d 1012, 1014 (1974) (amended complaint
11 supersedes original, and subsequent proceedings are based on the amended version);
12 Arizona Civil Remedies § 3-11 (2024) (citing cases and noting that "the amended
13 pleading supersedes the original pleading").

14 This principle is rooted in Rule 15, Arizona Rules of Civil Procedure, which governs
15 amendments and provides that amended pleadings relate back but replace prior
16 versions. Ariz. R. Civ. P. 15(c)-(d). Allowing multiple complaints to remain operable
17 would create confusion, duplicative litigation, and inconsistent rulings – precisely what
18 the supersession doctrine prevents. See, e.g., *Health for Life Brands, Inc. v. Powley*, 203
19 Ariz. 536, 542, ¶ 28, 57 P.3d 726, 732 (App. 2002) (amended pleadings streamline
20 proceedings by focusing on the current operative claims).

21
22 In this case, the First Amended Complaint is the sole operable pleading. The original
23 Complaint, upon which the July 31, 2025 dismissal was based, cannot coexist as an
24 operable document. Consequently, the portion of the Order authorizing attorneys' fees

1 and costs – premised on success against claims in the inoperable original Complaint –
2 must be vacated. Defendants' September 4, 2025 Application for fees is premature and
3 without basis until the Court resolves the pending Motion to Strike Portions of the
4 Amended Complaint (filed August 25, 2025), which directly addresses the viability of
5 claims in the operative pleading.

6
7 **C. Vacatur Is Appropriate Under Rule 60(b).**

8 Rule 60(b)(1), (4), and (6), Ariz. R. Civ. P., authorizes relief from an order for mistake,
9 where the judgment is void, or for any other reason justifying relief. Here, the
10 supersession of the original Complaint constitutes a mistake or other justifying reason,
11 as the fees directive is now based on an inoperable pleading, rendering it void or
12 inequitable. See *City of Phoenix v. Geyler*, 144 Ariz. 323, 328, 697 P.2d 1073, 1078 (1985)
13 (Rule 60(b) is remedial and liberally applied to prevent injustice). Vacatur will prevent
14 premature fee awards and ensure fees, if any, are based on the operative complaint
15 after full resolution.

16
17 **D. By Responding to the First Amended Complaint, Defendant Association**
18 **Concedes That It Is the Operative Pleading**

19 In addition to the supersession doctrine discussed above, the Association's own actions
20 confirm that the First Amended Complaint is the operative pleading in this case,
21 rendering the July 31, 2025 dismissal Order (which addressed only the original
22 Complaint) inapplicable and further justifying vacatur of the attorneys' fees directive.
23 A review of the docket shows that, following the filing of the First Amended Complaint
24 on August 15, 2025, Defendants filed a Motion to Strike Portions of the Amended

1 Complaint on August 25, 2025 (Docket Entry: MOT - Motion). More critically, on
2 September 4, 2025, an Answer to the First Amended Complaint was filed (Docket
3 Entry: ANS - Answer), which directly and fully engages with the claims in the
4 amended pleading by the Defendant Association. By filing this Answer – and/or the
5 earlier Motion to Strike – Defendants have conceded that the First Amended Complaint
6 is operable and governs the case, precluding any automatic carryover of the prior
7 dismissal. Because Arizona case law consistently holds that there can be only one
8 operative complaint at a time, and an amended complaint renders prior versions null
9 and void.

10 IV. CONCLUSION

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12 For the foregoing reasons, Plaintiff respectfully requests that the Court vacate the
13 portion of the July 31, 2025 Order directing Defendants Gottmann and Anderson to file
14 an application for attorneys' fees and costs, deny their September 4, 2025 Application as
15 premature, and grant such other relief as the Court deems just.

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17 Respectfully submitted this 7th day of September, 2025.

18 /s/ Lisa Marx

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